

# **MSHA Handbook Series**

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Mine Safety and Health Administration

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## **CITATION AND ORDER WRITING HANDBOOK**

## **PREFACE**

This handbook sets forth the procedures to be followed in writing and issuing citations and orders for health, safety, training, and documentation violations at coal and metal and nonmetal mines. Changes to this handbook must be authorized by the Administrator for Enforcement. Previously issued instructions relating to this subject are superseded by this handbook. This handbook does not supersede compliance related instructions contained in the MSHA Program Policy Manual.

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## **DISCLAIMER**

The citations and orders included in this Handbook are examples only and may not be an exact duplicate of the actual forms. Citations and orders issued for violations of the Federal Mine Safety and Health Act of 1977, the Mine Improvement and New Emergency Response Act of 2006, or other standards or regulations must depict gravity and negligence determinations reflective of circumstances present at the time of issuance.

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## **CHAPTER 1 - INTRODUCTION**

### **I. Authority**

The Federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement and New Emergency Response Act of 2006, (MINER Act) directs an Authorized Representative (AR) of the Secretary of Labor to issue citations and orders when he or she believes that a violation of the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act has occurred. The Mine Act also authorizes an AR to issue an order of withdrawal when an imminent danger condition exists. Sections 103, 104, and 107 of the Mine Act describe in detail the authority for issuing these citations and orders.

### **II. Purpose**

This handbook provides guidance for all enforcement personnel in:

- issuing, extending, modifying, vacating, and terminating citations and orders;
- describing the conditions or practices constituting a violation or imminent danger;
- writing clear justification for extensions and modifications of citations and orders of withdrawal;
- adequately describing the area or equipment affected by citations or orders of withdrawal; and
- adequately evaluating the degree of gravity and negligence of the violation.

Procedures, scenarios, and examples in this handbook should be used by all enforcement personnel, except for safeguards, which can only be issued at coal mines.

### **III. Responsibility**

If, upon inspection or investigation, an AR believes that a mine operator has committed a violation of the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, he or she must issue a citation or order of withdrawal to the mine operator. Each citation or order of withdrawal must be in writing and shall describe with particularity the nature of the violation, including reference to the provision of the Mine Act, standard, rule, regulation, or order alleged to have been violated. In addition, each citation must set a reasonable time for abatement of the violation.

## CHAPTER 2 – COMPLETING MINE CITATION AND ORDER OF WITHDRAWAL (ORDER) FORM

### Section I Violation Data Blocks

This section describes the violation blocks that are in the Inspection Application System (IAS). If you are issuing a citation through IAS then IAS will use the data that you enter into these blocks to generate the citation. IAS will populate some of the mine specific blocks based on the mine profile that you selected.

1. Issue Date:
2. Issue Time:
3. Citation/Order Number:
4. Served To:
5. Operator:
6. Mine Name:
7. Mine ID or (Contractor):
8. Condition or Practice:

**8a. Written Notice (Section 103 (g) of the Mine Act):**

Describe in detail the condition(s) or practice(s) that supports the violation or imminent danger that you are citing. If you need more space, check the "Continuation" block in the lower right hand corner of Item 8, and then use a Mine Citation/Order Continuation Form 7000-3a.

Incorporate some of the language directly from the violated standard or section of the Mine Act into this part of the citation. An example is to include *"The tail pulley guard was not kept securely in place"* as part of the description of the 'condition or practice' when citing 30 CFR § 56.12112(b).

Incorporate the location of the violative condition or practice and describe the equipment or area in this part of the citation. An example of this is to include information such as *"The tail pulley guard on the number two conveyor located in the loadout area was not kept securely in place."*

Measurements, observations, or size of an area, if applicable, to which the condition or practice applies/covers should be incorporated into the body of the citation.

How the condition or practice may result in an injury or illness should also be incorporated into the body of the citation. An example of this is: *"The tail pulley guard on the number two conveyor located in the loadout area was not kept securely in place. The guard is missing three of the five mounting nuts, allowing the guard to gap open 5 inches exposing miners to entanglement type injuries. An area maintenance miner greases the tail pulley once a week."*

**9. Violation:**

**A. (UG Coal Mines Only)**

Health ☐

Safety ☐

Other ☐

**B. Section of Act:**

**C. Part/Section of Title 30 CFR:**

**Section II Inspector's Evaluation**

**10. Gravity:**

Gravity is an evaluation of the seriousness of the violation. It is determined by the three criteria listed in 30 CFR § 100.3 (e) and discussed below. Inspectors should first determine what injury or illness the standard is designed to prevent. Based on facts, the inspector should consistently consider that same injury or illness when evaluating each of the gravity factors listed on the citation.

**A. Likelihood of Injury or Illness:**

Check the appropriate block to indicate the likelihood of an injury or illness occurring. Factors used to determine likelihood of injury or illness, include duration and frequency of the exposure under continued normal mining practices, the number of miners exposed to the condition or practice; the location and extensiveness of the condition or practice; and the length of time the condition or practice has existed.

Before determining the likelihood of actual harm, a proper evaluation of

gravity must include what the standard seeks to prevent such as a fall, a health hazard, crushing, or electrocution.

**No Likelihood** ☐

Select this box for violations of laws or regulations that are not designed to prevent injury or illness. This block must always be selected when citing a violation of a law or regulation that is not a mandatory health or safety standard.

**Example:** *Violations of 30 CFR § 50.20 for not submitting accident reports would be evaluated as "No Likelihood".*

**Unlikely** ☐

Select this box for violations of mandatory standards when the injury or illness is not reasonably likely to occur. This would include violations in which you do not expect normal mining operations to trigger an event that would lead to an injury or illness.

**Example:** *Electrically nonconductive material is not provided at a switchgear on the surface. If the switchgear is in good condition it is unlikely that the miner using it would come in contact with power.*

**Reasonably Likely** ☐

Select this box for violations of mandatory standards when the injury or illness is reasonably likely to occur. This would include violations in which you do not expect normal mining operations to trigger the injury- or illness-causing event.

**Example:** *A power cable that is regularly handled and in an active work area has a splice that is not adequately insulated, exposing bare conductors inside.*

**Highly Likely** ☐

Select this box for violations of mandatory standards when the injury or illness is highly likely to occur. This would include violations in which the circumstances necessary to trigger the injury- or illness-causing event already exist.

**Example:** *A miner is observed working on an inclined and slick elevated surface without being properly tied off with a safety belt or line.*

**Occurred** ☐

The "Occurred" box can only be checked when an injury or illness has actually occurred.

**Example:** *A contributing violation to a fatal accident investigation. When an event has "Occurred" and an injury or illness resulted, the severity of injury or illness marked in Item 10B on MSHA Form 7000-3 should match the injury or illness that actually occurred if the actual injury/illness was equal to or more severe than expected.*

## **B. Injury or Illness:**

Evaluate the expected severity of the injury or illness and check the appropriate box based on the facts available. The inspector should document the facts and reasoning used to determine the type of injury or illness that resulted or that would reasonably be expected to result; this determination is independent of the likelihood.

### **No Lost Work Days ☐**

Select this box when the expected injury or illness would not cause the affected miner(s) to miss one or more scheduled workday(s) or to be placed on restricted duty, excluding the day of injury or onset of illness. This box must always be selected when citing a violation of a law or regulation that is not a mandatory health or safety standard.

**Example:** *A violation issued for failing to notify MSHA of the change to the operator on the legal identity. This violation would not result in an injury.*

### **Lost Work Days or Restricted Duty ☐**

Select this box when the expected injury or illness would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or would cause one full day or more of restricted duty.

**Example:** *A violation issued for the operator not maintaining a walkway free from debris or other tripping hazards. The walkway is not elevated, and there are no other hazards present that could contribute to an accident being greater than strains, sprains, or abrasions.*

### **Permanently Disabling ☐**

Select this box when the expected injury or illness would result in the total or partial loss of the use of any member or function of the body.

**Example:** *A violation is issued for a silica overexposure. Overexposure causes silicosis and is permanently disabling.*

### **Fatal ☐**



Select this box when the expected injury or illness would result in death, or has a reasonable potential to cause death or has caused death.

**Example:** *A violation is issued for a miner working under a large raised component without it being blocked or mechanically secured. If this component fell it would result in fatal crushing injuries.*

**Example:** *A berm or guardrail is not provided for a haul road located at the top edge of a 300-foot tall highwall. The haul road is accessible but is rarely used. Tire tracks are not present and there is no operational or maintenance need to travel the haul road.*

**C. Significant and Substantial (S&S):** Yes ☐ No ☐

To consider a violation as S&S, the inspector must find that based upon the particular facts surrounding the violation, there exists a reasonable likelihood the hazard contributed to by the violation will result in an injury or illness of a reasonably serious nature.

In 1984, the Federal Mine Safety and Health Review Commission defined a four-part test for S&S. Under the *Mathies* test, the Secretary must prove:

- 1) *The underlying violation of a mandatory standard;*
- 2) *A discrete safety hazard – i.e., a measure of danger to safety – contributed to by the violation;*
- 3) *A reasonable likelihood that the hazard contributed to will result in an injury; and*
- 4) *A reasonable likelihood that the injury in question will be of a reasonably serious nature.*

It is the responsibility of the inspector to provide facts to support each of these factors. A key consideration that is useful in evaluating the conditions or practices being cited is the relevant time frame for determining the reasonable likelihood of injury. This includes both the time before the violation is cited and the time that it would have existed if normal mining operations continued. Therefore, if no miners were exposed to the hazard at the time of the violation, an inspector may still evaluate the violation as “reasonably likely”. If a miner was exposed to the hazard before the citation is issued or if it is reasonably likely that a miner would be exposed to the hazard if normal mining operations were allowed to continue, then a designation of “reasonably likely” is appropriate and a finding of S&S may be alleged.

Additional factors to be considered in the evaluation of reasonably likelihood are:

- The occurrence of an injury or illness does not have to be more probable than not in order for the likelihood to be designated as reasonably likely.
- For a citation that is being designated as S&S, there needs to be significantly more detail provided in the description, particularly with regard to the expected injury, than a citation that is designated as non-S&S.
- The inspector should consider the nature of the mine specific conditions as well as the history of injury and illness related to this hazard throughout the industry.
- Redundant features that provide an added measure of safety are not to be considered in the evaluation of reasonable likelihood. These redundant measures cannot be used in lieu of or replacement for the condition or practice cited.
- Only a violation of a “mandatory health or safety standard” can be designated as S&S. Violations of 30 CFR § 50.10 and Parts 46, 47, 48, 49, 56, 57, 58, 62, 70, 71, 72, 75, 77, and 90 can be designated as S&S.
- Violations of requirements in 30 CFR Parts 40, 41, 43, 44, 45, or 50 (except § 50.10) cannot be designated as S&S because they are regulations, not mandatory health and safety standards. For these violations, Gravity will be marked as:
  - Item 10A, ☐ “No Likelihood”.
  - Item 10B, ☐ “No Lost Workdays”.
  - Item 10C, ☐ S&S shall be checked “No”.
  - Item 10D, ☐ “Number of Persons Affected” as “000”.
- Violations of sections of the Mine Act other than Titles II and III, without an accompanying mandatory health or safety standard, also cannot be designated as S&S. Enter the following into the Condition or Practice section of the 7000-3 Form for these violations:

“The condition has been designated as “non-significant and substantial” because the conduct violated a provision of the Mine Act other than a mandatory safety or health standard.”

## Examples of properly evaluated violations

- A. (30 CFR § 56/57.14107 (Moving Machine Parts) or § 77.400 (Mechanical Equipment Guards) *Persons were working next to the stacking conveyor while it was in motion. They were reasonably likely to come in contact with and be injured by the unguarded moving machine parts of the #2 self-cleaning tail pulley.* (Reasonably Likely; Permanently Disabling; S&S - Yes)
- B. (30 CFR § 56/57.14107 or § 77.400) *A guard was not provided on the #2 self-cleaning tail pulley of the stacking conveyor. Persons did not work or travel in the area on any shift while the machinery was running. The conveyor was turned off and locked out when maintenance was performed.* (Unlikely; Permanently Disabling; S&S - No)
- C. (30 CFR § 56/57.14107 or § 77.400) *A guard was not provided on the #4 self-cleaning tail pulley adjacent to the walkway. Persons were not in the area and the tail pulley was not in operation at this time. However, persons had been in the area and the equipment had been operating on the previous shift with the guard off. The tail pulley was not out of service, however, and it was scheduled to operate when night shift operations began later today. Personnel travel on the walkway next to the energized tail pulley during the night shift.* (Reasonably Likely; Permanently Disabling; S&S - Yes)

## Standard, Hazard, Exposure, Injury, and Negligence (SHEIN)

SHEIN is a useful acronym to address each of these five essential elements to detail violation of a mandatory health and safety standard. In order to properly document the condition or practice in the body of the citation, provide the following:

- **Standard.** Provide a description of the condition or practice that constitutes the violation of a mandatory health and safety standard with the location or equipment identified where the violation exists.
- **Hazard.** Describe the hazard that reasonably causes or contributes to injury or illness of a miner.
- **Exposure.** Describe exposure of miners to a hazard, how many are exposed and over what time period does the exposure exist.
- **Injury.** Explain the type and severity of injury that could reasonably be expected from the hazard.
- **Negligence.** Define the extensive or obvious nature of the violation and

how long it existed. Determine through observation and records who was aware or should have been aware of the violative condition and degree of risk to miners.

**D. Number of Persons Affected:**

Enter the number of persons affected if the injury or illness occurred or were to occur.

**Affected verses Exposed:**

*AFFECTED*: Influenced in a harmful way; impaired, harmed.

*EXPOSED*: Vulnerable; open to danger.

It is important not to confuse the “Number of Persons Affected” by a condition or practice that is being cited with the number of persons exposed to the condition or practice. The number of persons exposed is not entered on the Form, but it often can be used in evaluating the likelihood that an event will cause an injury or illness. When evaluating the number of persons affected focus on the number of persons that would be harmed if the expected injury or illness occurs. That is the “Number of Persons Affected”.

**Considerations may be:**

- What is the number of persons who could be expected to be harmed from the condition that is observed?
- What is the type of injury or illness that could be expected from the condition that is observed? This should be based on the evaluation you made on the gravity section and the hazard associated with it.
- What is the likelihood that one or more persons would be injured or receive an illness from the condition that is observed?

In most cases, this evaluation will be easy and a correct decision can be made. Other times it will take careful evaluation to determine the correct number of people affected. The evaluation will require knowledge of the mine and its mining history in general and using sound reasoning in connecting several different factors.

- If the condition occurred, how many people would this condition cause damage or injury to?

***Example:***

*The inspector found that the hoist elevator could fail due to one of the safety devices not being maintained. The hoist is normally loaded with five miners when it is being lowered into the mine. It's reasonable that the number of persons exposed could easily be evaluated as all five miners or could be the number of miners that travel up and down in the hoist, per shift, each day. But if the hoist failed and dropped to the bottom of the shaft, it would only affect the five miners at the time the hoist failed. So, only five would be injured if the accident occurred, not everyone that used the hoist that day.*

**11. Negligence:**

Negligence is defined as conduct, either by commission (a command or instruction) or omission (failure to address) which falls below a standard of care established under the Mine Act to protect miners against the risks of harm. Under the Mine Act, an operator is held to a high standard of care. A mine operator is required to be on the alert for conditions and practices in the mine that affect the safety or health of miners and to take steps necessary to correct or prevent hazardous conditions or practices. The failure to exercise a high standard of care constitutes negligence.

Document all reasoning for degree of negligence in detail in your inspection notes.

(The degrees of negligence are defined in 30 CFR § 100.3 (d) as follows)

**NO NEGLIGENCE (None) ☐**

The operator exercised diligence and could not have known of the violative condition or practice.

**LOW NEGLIGENCE ☐**

The operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances.

***Consider:***

- Actions taken to minimize or eliminate access
- Parts ordered
- Temporary controls (out of service)
- Barricades or other protective measures
- No notice/violation history
- Engineering control systems provided/maintained

- Appropriate PPE provided
- Specific training

#### **MODERATE NEGLIGENCE** □

The operator knew or should have known of the violative condition or practice, but there are mitigating circumstances.

##### *Consider:*

- Reason to know
- Some notice/violation history
- Noted or reported
- Engineering control systems provided/maintained
- Appropriate PPE provided
- Specific Training

#### **HIGH NEGLIGENCE** □

The operator knew or should have known of the violative condition or practice, and there are no mitigating circumstances.

##### *Consider:*

- Operator Knew – Who and How did they know (documented in notes)
- Condition is obvious and extensive
- Extensive notice/violation history
- Failed to take safety precautions
- Indifferent to a known violation
- Who and How did they know (documented in notes)

#### **RECKLESS DISREGARD** □

The operator displayed conduct which exhibits the absence of the slightest degree of care.

##### *Consider:*

- Mine operator fully aware of the violative condition and made **NO** effort to protect miners for unsafe conditions.

**Unwarrantable failure** has been defined as aggravated conduct constituting

more than ordinary negligence. Accordingly, when citing a violation with “high” negligence, the inspector also must evaluate whether aggravated conduct exists to determine if the violation also is an unwarrantable failure to comply.

**Factors inspectors should evaluate when determining “*aggravated conduct*” may include the following:**

1. The violative condition or practice posed a high degree of danger to miners.
2. The violative condition or practice was obvious and/or extensive.
3. The violative condition or practice had existed for a length of time.
4. Repeated similar violations have been cited at the mine or to the contractor in the recent past.
5. An agent of the operator or contractor was aware of the existence of the hazard.
6. The operator knew or had reason to know that its action(s) violated a mandatory standard.
7. The violative condition or practice had been reported to the operator or contractor or agent who then allowed it to exist, without correcting or adequately addressing the problem, for a period of time.
8. The violation was a result of deliberate activity by the operator.
9. Reasonable efforts were not made by the mine operator or contractor to prevent or correct the hazard.

Other factors, not enumerated above, resulted in a negligence evaluation by the inspector of “high” or “reckless disregard”.

- Any one of the circumstances above **may** constitute sufficient grounds for an unwarrantable failure citation or order.
- Inspectors must include detailed factors and explain how the operator engaged in aggravated conduct in the Condition or Practice section of the Mine Citation/Order Form when issuing a section 104(d) citation or order. The operators agent should be identified by position not name.

**12. Type of Action:** ☐

Enforcement Action Type (Select which action is being taken [e.g, 104(a), 104(b) of the Mine Act].)

**13. Type of Issuance:**

(Select the appropriate type. Safeguard is for underground coal mines only.)

Citation ☐

Order ☐

Safeguard ☐

Written Notice ☐

**14. Initial Action:**

(Select the type citation and order number and the IAS will self-populate.)

(Safeguard is for underground coal mines only.)

A. Citation ☐

B. Order ☐

C. Safeguard ☐

D. Written Notice ☐

E. Citation/Order Number ☐

F. Date ☐

**15. Area or Equipment:**☐

This pertains to orders of withdrawal only, which are under 104(b), 104(d)(1), 104(d)(2) 104(e), 104(g)(1), 107(a), 103(j) and 103(k) of the Mine Act. Indicate the area or equipment, or in case of a 104(g)(1) order, the person. The area should be that area from which the employees shall be withdrawn until the dangerous conditions and causes of those conditions have been corrected. Equipment should be identified by manufacturer, model, serial number (if known), color and name, etc. Also, note here if it is ordered removed from service. In the case of a 104(g)(1) order, put the untrained miner's name here. Use the phrase: "*No Area Affected*" if this is a technical order of withdrawal such as a 104(b) Order for failure to complete Part 50 employment or injury reporting reports.

**16. Termination Due:**

(The abatement time and date is set to correct the condition or practice. The termination due date is left blank if it is an orders.)

A. Date ☐

B. Time ☐



### Section III- Termination Action

**17. Action to Terminate:** ☐

(Describe in detail the specific action(s) taken to correct the cited condition(s) or practice(s) which justifies termination. Do not use short phases like: "It's been corrected", "It's been fixed".

**18. Terminated:**

A. Date ☐

B. Time ☐

### Section IV- Automated System Data

**19. Type of Inspection:** ☐

(Auto-generated)

**20. Event Number:** ☐

(Auto-generated)

**21. Primary or Mill:** ☐ (MNM mines only)

(Letter "P" if the violation occurred in the production or primary mining phase of the operation. Generally, an entry of "P" includes activities and/ or equipment from the mining site up to, but not always including, milling processes.)

**Exception:** Violations cited at freestanding mills with a separate Mine ID number should have "P" entered in the space.

**22. AR Name:** ☐

(Auto-generated)

**23. AR Number:** ☐

(Auto-generated)

## **CHAPTER 3 - SELECTED PROVISIONS OF THE MINE ACT**

### **Section 103(a): Denial of Right of Entry**

#### **Denial of Entry - Established MSHA Mine ID Number**

When a mine operator or its agent directly refuses to allow an inspector entry to an active mining operation having an MSHA mine ID number, the inspector must immediately contact their supervisor. The supervisor shall immediately attempt to contact the mine operator and attempt resolution, along with contacting the district office. If a citation is issued, the inspector must either hand deliver or mail the citation to the mine operator certified mail, return receipt requested.

**Note:** In the rare instances these types of violations are issued, supervisors should discuss them with the district office and/or regional solicitor prior to issuance. These types of violations are frequently litigated and are often contentious so consultation and coordination prior to issuance will assure that everyone understands the situation and are in agreement with the actions being taken.

#### **Denial of Entry - No Established MSHA Mine ID Number**

The inspector must notify his or her supervisor to determine whether or not the mining operation falls under the jurisdiction of the Mine Act. If it is subsequently determined that the operator is engaged in mining or milling activities and if entry is denied to a mine that does not have an MSHA mine ID number, a mine ID number should be obtained based on the information that has been acquired.

After the mine ID number has been obtained, the field office supervisor and inspector should return to the mine, or make arrangements to meet with the mine operator, and request access under the provisions of the Mine Act.

#### **Other Forms of Denial of Entry**

Denial of right of entry procedures also apply when inspectors have been granted entry but are not allowed to inspect or to continue an inspection or investigation. These procedures apply to any type of interference whether it be delay, harassment, or personal assault.

In all such cases, except personal threats or assault, the inspector should try to communicate with the mine operator, explaining the entry and inspection rights of MSHA under Section 103(a) of the Mine Act.

MSHA policy requires that an inspector leave the scene when an apparent violation of Section 111 of Title 18 of the United States Code is about to occur. To avoid a confrontation, inform the person(s) involved that an attack on an MSHA inspector is a federal crime and that they may be subject to arrest. If the inspector believes that he/she is subject to physical harm or assault, he/she should leave the property immediately and promptly notify their supervisor.

#### **Section 104(a) Citation: Denial of Right of Entry**

##### **Notes: 104(a) Citation of Denial of Entry**

**Item #8.** ☐ Condition and Practice must have the statement: This condition has not been designated as "Significant and Substantial" because the condition violated is a provision of the Mine Act rather than a mandatory safety and health standard.

**Items # 9 B** ☐ is completed with 103(a)

**Item #10** ☐

A - No Likelihood

B - No Injury

C - S&S No


D - 0 Persons Affected

**Item #12.** ☐ Type of action is 104(a).

**Items #16.** ☐ Abatement time should remain short.

**Note:** Regional SOL should be contacted by the district.

## Section 104(a) Citation: Denial of Right of Entry

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration			
<b>Section I--Violation Data</b>					
1. Date Mo Da Yr 4/16/2020		2. Time (24 Hr. Clock) 0806		3. Citation/ Order Number 9000008	
4. Served To Raymond Hardwood, Owner			5. Operator Hidden Hill Gravel Inc.		
6. Mine Hidden Hill Pit			7. Mine ID 99-02285 (Contractor)		
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	
<p>Mr. Raymond Hardwood, Owner of Hidden Hill Gravel Inc., refused to allow an authorized representative to enter the mine. Mr. Hardwood stated he would not allow an inspector of MSHA to enter his property without a search warrant. Mr. Hardwood was advised that a search warrant was not necessary and refusal to allow the inspection was in violation of 103(a) of the Mine Act.</p> <p>This condition has not been designated as significant and substantial because the violation is a provision of the Mine Act, rather than a mandatory safety or health standard.</p>					
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>					
<b>Section II--Inspector's Evaluation</b>					
9. Violation					
A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>		B. Section of Act 103-a		C. Part/Section of Title 30 CFR	
10. Gravity:					
A. Injury or illness (has) (is): No Likelihood <input checked="" type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>					
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>					
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>					D. Number of Persons Affected: 000
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>					
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr	
15. Area or Equipment					
16. Termination Due					
A. Date Mo Da Yr 4/16/2020		B. Time (24 Hr. Clock) 0836			
<b>Section III--Termination Action</b>					
17. Action to Terminate					
18. Terminated					
A. Date Mo Da Yr		B. Time (24 Hr. Clock)			
<b>Section IV--Automated System Data</b>					
19. Type of Inspection (activity code) E01		20. Event Number 1000124		21. Primary or Mill	
22. Signature				23. AR Number	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>					

## Section 104(b) Order: Denial of Entry

A Section 104(b) order of withdrawal must be issued if the operator still refuses entry after a Section 104(a) citation has been issued. Injunctive proceedings may be recommended by the District Manager if the operator does not comply with the order.

**Note:** In the rare instances these types of violations are issued, supervisors should discuss them with the district office and/or Regional Solicitor prior to issuance. These types of violations are frequently litigated and are often contentious so consultation and coordination with all parties prior to issuance will assure that everyone understands the situation and is in agreement with the actions being taken.

### Notes: 104(b) Order of Denial of Entry

**Item #8.** ☐ Condition and Practice must have the statement: This condition has not been designated as "Significant and Substantial" because the condition violated is a provision of the mine act rather than a mandatory safety and health standard.

**Items # 9 B** ☐ is completed with 103(a)

**Item #10** ☐

A - No Likelihood

B - No Injury

C - S&S No

D - 0 Persons Affected

**Item #12.** ☐ Type of action is 104(b).

**Items #16.** ☐ No abatement time.

**Note:** Regional solicitor should be contacted by the district.

## Section 104(b) Order: Denial of Right of Entry

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/16/2020	2. Time (24 Hr. Clock) 0922	3. Citation/ Order Number 9000008	
4. Served To Raymond Hardwood, Owner		5. Operator Hidden Hill Gravel Inc.	
6. Mine Hidden Hill Pit	7. Mine ID 99-02285 (Contractor)		
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>Mr. Raymond Hardwood, Owner of Hidden Hill Gravel Inc, continued to deny an authorized representative to enter the Hidden Hill Pit, for the purpose of conducting an inspection of the mine in accordance with the requirements of Section 103(a) of the Federal Mine Safety and Health Act.</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act 103 (a)	C. Part/Section of Title 30 CFR
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected:
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (b)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input checked="" type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number 9000006	F. Dated Mo Da Yr 4/16/2020
15. Area or Equipment No Area Affected			
16. Termination Due A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 1000124	21. Primary or Mill P	
22. AR Name		23. AR Number	
<p><small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small></p>			

## Section 103(j): Order of Withdrawal

### A. Enforcement personnel shall consult with the appropriate District Manager before issuing 103(j) orders of withdrawal.

In the event of a mine accident where rescue and recovery work is necessary, MSHA is authorized to take any action deemed appropriate to protect the destruction of evidence which would assist in the investigation of the cause or causes thereof, including supervising and directing any mine rescue and recovery effort. The mine operator is required to take measures to prevent destruction of evidence that could assist accident investigators.

### B. Additional documentation required with issuance.

If needed.

### C. Modifications and Terminations.

The District Manager directs the modification and termination of the 103(j) orders.

#### Notes: 103(j) Orders

**Item #8.** ☐ Condition and Practice must describe the hazard and clearly state the prohibited activity.

**Items # 9 and #10.** ☐ Not completed.

**Item #12.** ☐ Type of action is written in as 103(j).

**Item #13.** ☐ Select **Order**

**Item #15.** ☐ Describe the “**Area or Equipment**” affected; must be clearly identified.

**Item #16, #17 and #18.** ☐ Are not completed

**Note:** These issuances are only appropriate under the direction of the District Manager.

## Section 103(j): Order of Withdrawal

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/1/2019	2. Time (24 Hr. Clock) 0235	3. Citation/ Order Number 9000002	
4. Served To Adriene Jackson, Underground Superintendent		5. Operator Air Mining	
6. Mine Helium Underground		7. Mine ID 99-09876 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>A mine fire occurred in the unit #17 main haulage area, near the 4160 volt electrical power center. 7 miners have communicated they are near the bottom of a fresh air intake raise in drift NE4, and were in communication with the shift foreman on the leaky-feeder radio system prior to the system failing. There is one 6 man mine rescue team available on site with a backup team in route from a different location. All persons are prohibited from entering the mine until a backup team is available at the Fresh Air Base while the other team pursues the rescue effort.</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected:
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 103(j)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment This order includes all underground areas of this mine.			
16. Termination Due A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E07	20. Event Number 1000123	21. Primary or Mill	
22. AR Name		23. AR Number	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			



## Section 103(k): Order of Withdrawal

In the event of a mine accident, MSHA may issue orders deemed appropriate to ensure the safety of any person at the mine. The operator of that mine shall obtain the approval of the MSHA representative, in consultation with state mining agency representatives (if appropriate), regarding any plan to recover any person in the mine, to recover the mine, or to return affected mining areas to normal operations.

### Notes: 103(k) Order of Withdrawal

**Item #8.** ☐ Condition and Practice must describe the hazard and clearly state the prohibited activity.

**Items # 9 and #10.** ☐ Not completed.

**Item #12.** ☐ Type of action is 103(k).

**Item #15.** ☐ Area and equipment must be clearly identified.


**Items #16, #17 and #18.** ☐ Not completed

**Note:** These issuances are only appropriate under the direction of the District.

## Section 103(k): Order of Withdrawal

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/1/2020	2. Time (24 Hr. Clock) 0711	3. Citation/ Order Number 9000003	
4. Served To Monty Martian, Mine Manager		5. Operator Air Mining	
6. Mine Helium Underground		7. Mine ID 99-09876 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>A fatal accident occurred at this mine on April 1, 2020 when an electrician contacted an energized conveyor frame on the 120 ore load out conveyor. This order is issued to assure the safety of all persons in the rail load out building and 120 conveyor tunnel until MSHA has determined it is safe to resume normal mining operations in this area. The mine operator shall obtain prior approval from an authorized representative for all actions to recover and/or restore operations in the affected area.</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/> D. Number of Persons Affected:			
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 103 (k)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment Rail load out area and the 120 conveyor tunnel			
16. Termination Due A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E07	20. Event Number 1000123	21. Primary or Mill P	23. AR Number
22. AR Name			
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on any enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 North Capitol Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

## Section 103(k): Order of Withdrawal (Modification)

Mine Citation/Order Continuation					
<b>Section I--Subsequent Action/Continuation Data</b>					
1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>		2. Dated (Original Issue) 04/01/2020		3. Citation/Order Number 9000003 - 01	
4. Served To Monty Martian, Mine Manager				5. Operator Air Mining	
6. Mine Helium Underground				7. Mine ID 99-09876 (Contractor)	
<b>Section II--Justification for Action</b>					
Change		From		To	
<p>15. Area or Equipment</p> <p>Reason Rail Load out and the 120 conveyor tunnel</p> <p>Justification All electrical power sources have been identified and de-energized, allowing access for emergency crews to enter the rail load out area and the 120 conveyor tunnel.</p>					
See Continuation Form <input type="checkbox"/>					
<b>Section III--Subsequent Action Taken</b>					
8. Extended To		A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
				<input type="checkbox"/> C. Vacated <input type="checkbox"/> D. Terminated <input checked="" type="checkbox"/> E. Modified	
<b>Section IV--Inspection Data</b>					
9. Type of Inspection E07		10. Event Number 1000123			
11. AR Name		AR Number		12. Date Mo Da Yr	
				04/01/2020	
				13. Time (24 Hr. Clock) 07:22	
MSHA Form 7000-3a, Mar 85 (revised)					

## Section 103(k): Order of Withdrawal (Termination)

Mine Citation/Order  
Continuation



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 04/01/2020	3. Citation/ Order Number 9000003 - 02
4. Served To Monty Martian, Mine Manager	5. Operator Air Mining	
6. Mine Helium Underground	7. Mine ID (Contractor) 99-09876	

Section II--Justification for Action

The rail load out and 120 conveyor tunnel has been inspected and it has been determined that it is safe to resume normal operations in the affected area.

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E07	10. Event Number 1000123		
11. AR Name	AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)
		04/07/2020	08:47

MSHA Form 7000-3a, Mar 85 (revised)

## Section 104(a): Citation

If, upon inspection or investigation, an inspector believes that a mine operator subject to the Mine Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, he or she shall, with reasonable promptness, issue a citation to the mine operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Mine Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of the Mine Act.

### Notes: 104(a) Citation

**Item #8.** ☐ Condition and Practice must clearly state how the standard was violated, describe the hazard to miners should an accident/incident occur and explain the exposure to the hazard.


**Item #10 - C** ☐ S&S is yes when a violation is deemed:

Reasonably Likely  
Highly Likely  
Occurred


AND

Lost Workdays or Restricted Duty  
Permanently Disabling  
Fatal

## Section 104(a): Citation Non-S&S

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration			
<b>Section I--Violation Data</b>					
1. Date	Mo Da Yr 4/12/2020	2. Time (24 Hr. Clock)	0925		3. Citation/ Order Number 900327611
4. Served To	Darryl Lark, Leadman		5. Operator	Bird Mining LLC	
6. Mine	Cracked Corn Pit		7. Mine ID	99-08754 (Contractor)	
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>		
<p>The outer jacket of the energized 480 volt power cable that supplies electrical power to tunnel pump, had a cut about 3 inches in length exposing the inner conductors to mechanical damage. Miners in this area are exposed to electrical shock and fire hazards in the event of an arc flash. The cut in the cable is located about 4 feet behind a handrail, and this area is only accessed when the pump is de-energized and locked out for service.</p>					
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>					
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.12004		
<b>Section II--Inspector's Evaluation</b>					
10. Gravity:					
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>					
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>					
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/> D. Number of Persons Affected:					
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>					
12. Type of Action 104(a) 13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>					
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/> E. Citation/ Order Number F. Dated Mo Da Yr					
15. Area or Equipment					
16. Termination Due A. Date Mo Da Yr 4/12/2020 B. Time (24 Hr. Clock) 10:30					
<b>Section III--Termination Action</b>					
17. Action to Terminate					
The cable was repaired with vulcanizing tape, and received a continuity and resistance test terminating the above numbered citation.					
18. Terminated A. Date Mo Da Yr 4/12/2020 B. Time (24 Hr. Clock) 10:17					
<b>Section IV--Automated System Data</b>					
19. Type of Inspection (activity code) E01		20. Event Number 100099754		21. Primary or Mill P	
22. Signature				23. AR Number	
<p><small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small></p>					

## Section 104(a): Citation S&S

Mine Citation/Order				U.S. Department of Labor Mine Safety and Health Administration			
<b>Section I--Violation Data</b>							
1. Date Mo Da Yr 4/13/2020		2. Time (24 Hr. Clock) 0908		3. Citation/ Order Number 9000005			
4. Served To Darryl O. Lamb, Leadman				5. Operator Mining Company			
6. Mine Star Blue				7. Mine ID 99-02285 (Contractor)			
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>			
<p>The outer jacket of the energized 480 volt power cable had a cut about 3 inches long exposing the inner conductors to mechanical damage. Miners accessing this area are exposed to electrical shock hazards. The cut cable was located in the wet process area, and was directly exposed to water spray from the dust control spray bar. Miners stand within approximately 2 feet of the damage to take hourly material samples.</p>							
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>							
9. Violation		A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>		B. Section of Act		C. Part/Section of Title 30 CFR 56.12004	
<b>Section II--Inspector's Evaluation</b>							
10. Gravity:							
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>							
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>							
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>						D. Number of Persons Affected: 001	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>							
12. Type of Action 104 (a)				13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				E. Citation/ Order Number		F. Dated Mo Da Yr	
15. Area or Equipment							
16. Termination Due							
A. Date Mo Da Yr 4/13/2020		B. Time (24 Hr. Clock) 1000					
<b>Section III--Termination Action</b>							
17. Action to Terminate The cable was repaired vulcanizing tape, and received a continuity and resistance test hereby terminating the above number citation.							
18. Terminated							
A. Date Mo Da Yr 4/13/2020		B. Time (24 Hr. Clock) 1016					
<b>Section IV--Automated System Data</b>							
19. Type of Inspection (activity code) E01		20. Event Number 1000124		21. Primary or Mill P		23. AR Number	
22. AR Name							
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>							

## Section 104(b): Order Failure to Abate

Inspectors should consider all circumstances when the time fixed for a citation's abatement has expired. In determining whether to issue a Section 104(b) order, the inspector must determine whether there is a reasonable basis for extending the abatement date. If an extension of time is not justified and the cited condition or practice is not abated, the inspector must issue a Section 104(b) order of withdrawal. Upon abatement of the condition or practice cited in the original citation, the order can be terminated.

### Notes: **104(b)** Order Failure to Abate

**Item #8.** ☐ Describes the operator's failure to abate the violation previously cited. Be sure to describe in detail the initial condition or practice.

**Item #9.** ☐ Complete Item 9B or 9C with the appropriate section of the Mine Act if a section [e.g., Sections 103(j) or 103(k)] is violated, or with the standard violated.

**Items #10 and 11.** ☐ Do not complete Items 10A through D or Item 11.

**Items #12 and 13.** ☐ Enter 104(b) in Item 12 and check the "Order" block in Item 13.

**Item #14.** ☐ Check the "Citation" block in Item 14A; enter the initial citation number in Item 14E and the date of citation issuance in Item 14F.

**Item #15.** ☐ Complete Item 15 "Area or Equipment" with the area or equipment affected by the order. Enter the phrase "No Area Affected" if this is a technical violation.

**Item #16.** ☐ Do not complete item 16A or B. Terminate the 104(b) order when the out of compliance condition(s) is/are corrected.

**Item #17.** ☐ When terminating the B order the original citation will be terminated automatically in IAS.



## Section 104(b): Order of Withdrawal

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 3/13/2020	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 9000002	
4. Served To John Doe, Foreman		5. Operator PINNACLE MINING COMPANY LLC	
6. Mine PINNACLE MINE		7. Mine ID 46-01816 (Contractor)	
8. Condition or Practice No apparent effort was made by the operator to adequately insulate and fully protect the energized trailing cable on the company number 1 shuttle car (S/N 03132020). The shuttle car was energized and in operation at the time of this inspection.			
8a. Written Notice (103g) <input type="checkbox"/>			
Standard 75.517 was cited 4 times in two years at mine 4601816 (4 to the operator, 0 to a contractor).			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.517
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected:
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (b)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input checked="" type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number 9000001	F. Dated Mo Da Yr 3/13/2020
15. Area or Equipment 1 shuttle car (S/N 03132020)			
16. Termination Due A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 9000000	21. Primary or Mill	
22. AR Name		23. AR Number	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have. You are not giving the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

## Section 104(a) Citation: Working in violation of 104(b) Order of Withdrawal

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<small>Section I--Violation Data</small>			
1. Date Mo Da Yr 5/15/2020	2. Time (24 Hr. Clock) 0700	3. Citation/ Order Number 4410188	
4. Served To Lefty Jones, Safety Director		5. Operator Wheat Mining Co.	
6. Mine WMC Mine and Mill		7. Mine ID 15-12345 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>The mine operator is continuing to operate the Caterpillar 988 front-end loader even though a 104(b) order #4410171 for non-compliance was issued by MSHA on May 10, 2020. This order required the loader to be removed from service until a cracked cab window was repaired. The loader was loading trucks at the plant on May 15, 2020. The foreman stated that they did not have time to replace the window. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.</p>			
<small>See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/></small>			
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act 104(b)	C. Part/Section of Title 30 CFR
<small>Section II--Inspector's Evaluation</small>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input checked="" type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number 4410171	F. Dated Mo Da Yr 05/10/2020
15. Area or Equipment			
16. Termination Due			
A. Date Mo Da Yr 05/15/2020		B. Time (24 Hr. Clock) 0730	
<small>Section III--Termination Action</small>			
17. Action to Terminate			
18. Terminated			
A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<small>Section IV--Automated System Data</small>			
19. Type of Inspection (activity code) E16	20. Event Number 7777777	21. Primary or Mill	
22. AR Name Jimmy Johnson		23. AR Number 51050	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

## **Section 104(d)(1): Citation**

### **Criteria for Issuing a 104(d)(1) Citation**

104(d)(1) Citation shall be issued if:

1. there is a violation of a mandatory health or safety standard;
2. the violation significantly and substantially contributes to the cause and effect of a mine safety or health hazard; and
3. there is an unwarrantable failure of the mine operator or contractor to comply with the standard.

**Note:** A violation of a section of the Mine Act cannot be issued as a 104(d) citation or a 104(d) order even if the negligence evaluation is determined to be "high" or "reckless disregard". Violations of regulations at 30 CFR Parts 40, 41, 43, 44, 45, or 50 [excluding 50.10] also cannot be issued as 104(d) citations or orders even if the negligence evaluation is "high" or "reckless disregard". However, violations of interim mandatory health and safety standards found in Title 2 and Title 3 of the Mine Act, not superseded by mandatory health and safety standards, can be cited as S&S and evaluated as unwarrantable failure citations or orders based on the evaluations conducted in Items 10A and 10B of the Citation/Order form.

A violation is caused by an unwarrantable failure if it is determined that the mine operator or contractor has engaged in aggravated conduct constituting more than ordinary negligence.

**When determining "aggravated conduct", inspectors should consider whether:**

1. the violative condition or practice was obvious or extensive;
2. the violative condition or practice had existed for a period of time;
3. similar violations have been issued at the mine or to the contractor in the recent past;
4. an agent of the operator or contractor had conducted an examination or had been in the area, or was aware of the existence of the condition;
5. the violative condition or practice had been reported to the operator or contractor who then allowed it to exist, without correcting or adequately addressing the

problem, for a period of time;

6. the individual who committed or allowed the condition or practice to exist was an agent of the operator, or an agent of a contractor;
7. reasonable efforts were not made by the mine operator or contractor to correct the violative condition or practice; and
8. other factors, not enumerated above, resulted in a negligence evaluation by the inspector of "high" or "reckless disregard".

Notes: **104(d)(1) Citation**

**Item #8** ☐ Identify the agent of the operator by position, only (exclude names) that knew or should have known of the violative condition or practice. The factors that explain how the operator or the Agent engaged in any of the factors could be considered for aggravated conduct.

*The following statement must be included in the violation narrative:*


**"This violation is an unwarrantable failure to comply with a mandatory standard."**

**Items #10 C.** ☐ Violation must be Significant and Substantial, "Yes".

**Items #12** ☐ Type of Action, click 104(d)(1)

**Item #13** ☐ Check the "Citation" block

## Section 104(d)(1) Citation

Mine Citation/Order				U.S. Department of Labor Mine Safety and Health Administration			
<b>Section I--Violation Data</b>							
1. Date		Mo Da Yr 4/7/2020		2. Time (24 Hr. Clock) 0703		3. Citation/ Order Number 1000001	
4. Served To Big Ben, Mine Manager				5. Operator Megabucks Mining Co.			
6. Mine NO. 1				7. Mine ID 15-12345 (Contractor)			
8. Condition or Practice						8a. Written Notice (103g) <input type="checkbox"/>	
<p>Loose coal, coal fines and float coal dust, black in color, have been allowed to accumulate underneath and along both sides on the roof, rib and floor of the #1 Section Belt from XC10 to XC20 of the actively running belt, a distance of 700 feet. Accumulations, measuring up to 24 inches in depth, are tightly compacted around and underneath the turning bottom belt rollers resulting in frictional heating, as evidenced by the metal belt rollers that are hot to the touch. There are 10 miners working on the active section inby this cited condition, three shifts per day, five days per week. Based on continued normal mining practices, this condition will expose the section miners to serious injuries associated with smoke inhalation and fire hazards. These conditions are obvious, extensive and would be evident to the most casual observer. Dates, times, and initials for the On-shift examination are present along the belt indicating the area had been examined by the certified foreman within one hour of this inspection. This violation is an unwarrantable failure to comply with a mandatory standard.</p>							
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>							
9. Violation		A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>		B. Section of Act		C. Part/Section of Title 30 CFR 75.400	
<b>Section II--Inspector's Evaluation</b>							
10. Gravity:							
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>							
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>							
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>						D. Number of Persons Affected: 001	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>							
12. Type of Action 104 (d) (1)				13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				E. Citation/ Order Number		F. Dated Mo Da Yr	
15. Area or Equipment							
16. Termination Due							
A. Date		Mo Da Yr 4/7/2020		B. Time (24 Hr. Clock) 0803			
<b>Section III--Termination Action</b>							
17. Action to Terminate							
18. Terminated							
A. Date		Mo Da Yr		B. Time (24 Hr. Clock)			
<b>Section IV--Automated System Data</b>							
19. Type of Inspection (activity code) E02		20. Event Number 7777777		21. Primary or Mill			
22. AR Name Rocky Balboa						23. AR Number 51050	
<p><small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small></p>							

## Section 104(d)(1): Order

### Notes: 104(d)(1) Order

**Item #8** ☐ Identify the agent of the operator by position, only (exclude names) that knew or should have known of the violative condition or practice. The factors that explain how the operator or the Agent engaged in any of the factors could be considered for aggravated conduct.

*The following statement must be included in the violation narrative:*

**“This violation is an unwarrantable failure to comply with a mandatory standard.”**

**Item #12** ☐ Type of Action, click 104(d)(1) Order

**Item #13** ☐ Type of Issuance click Order

**Item #14 E** ☐ Citation/Order Number. Selected 104(d)(1) Citation number.

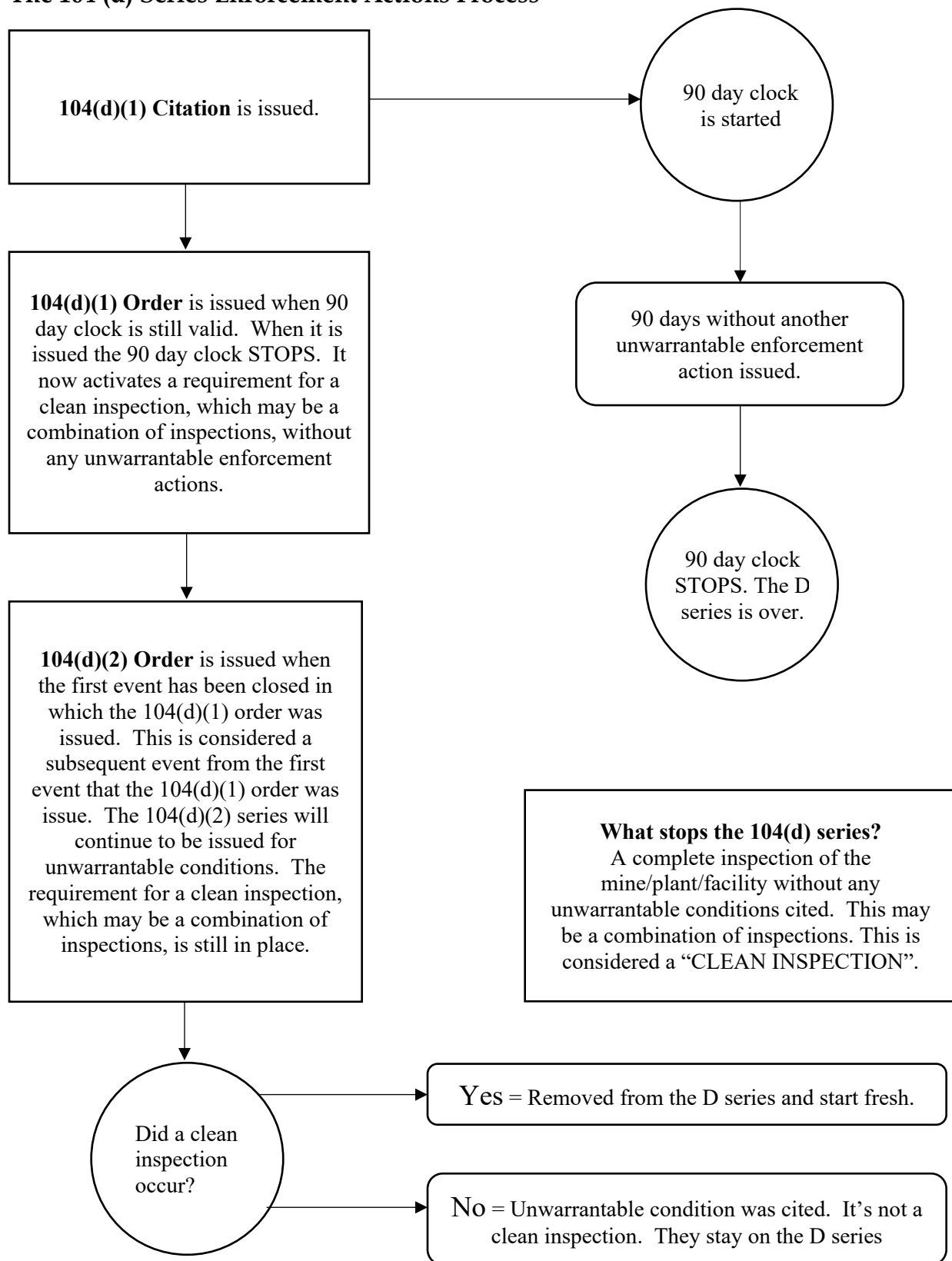
**Items #14** ☐ A-D will autofill

**Item #14** ☐ F will autofill

**Item #15** ☐ Area or Equipment

**Item #16** ☐ Termination Due is left blank. Orders do not have termination dates

## The 104 (d) Series Enforcement Actions Process



## Section 104(e)(1): Pattern of Violation Notice

If a mine operator has a pattern of violations by receiving repeat or multiple S&S violations of mandatory MSHA standards, MSHA will issue a notice that such a pattern exists. The notice must identify each repeat or multiple S&S violations relied on to show a pattern. This section also allows for withdrawal of all persons from the affected area if MSHA finds another significant and substantial violation during an inspection within 90 days of issuance of the notice of pattern of violations. The 104(e) withdrawal order remains in effect until MSHA finds that this subsequent violation has been abated. Abatement of the subsequent violation does not terminate the pattern notice.

### Notes: 104(e)(1) Notice

**Items 9, A□, B□, C□** are left blank

**Item 10, A□ through D□,** are left blank

**Item 11.** □ blank

**Item 12.** □ Select "104(e)(1)"

**Item 13.** □ Select the "Written Notice"

**Items 14A.** □ through **14F.** □ blank

**Items 15.** □ **16.** □ **17.** □ and **18.** □ blank

**Note:** SOL-MSH should be consulted when drafting notice.



# 104(e)(1) Notice

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/9/2020	2. Time (24 Hr. Clock) 1045	3. Citation/ Order Number 1000000	
4. Served To Mark Blackburn, Foreman		5. Operator Mountain Momma Coal Mine	
6. Mine Mountain Momma Mine		7. Mine ID 01-2345 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>Pursuant to Section 104(e)(1) of the Federal Mine Safety and Health Act of 1977 (Mine Act), you are hereby notified that a pattern of violations exists at the (subject mine). A review of the S&amp;S violations cited at the mine demonstrates a pattern of violations. As illustrative of this pattern of violations, the following groups of violations are representative of violations which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards:</p> <p>These groups of violations, taken alone or together, constitute a pattern of violations of mandatory health and safety standards in the coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards.</p> <p>If upon any inspection within 90 days after issuance of this Notice, an Authorized Representative of the Secretary finds any violation of a mandatory health or safety standard that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, the Authorized Representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in Section 104(c) of the Mine Act, to be withdrawn from, and to be prohibited from entering such area until an Authorized Representative of the Secretary determines that such violation has been abated. This Notice of Pattern of Violations shall remain posted at the mine until it is terminated by an Authorized Representative.</p>			
See Continuation Form (MSHA Form 7000-3a) <input checked="" type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected:
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (e) (1)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input checked="" type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	
F. Dated Mo Da Yr			
15. Area or Equipment			
16. Termination Due			
A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated			
A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 9845910	21. Primary or Mill	
22. AR Name John Doe		23. AR Number 01234	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

## Section 104(e)(1): Order

### Notes: 104(e)(1) Orders

**Item 8.** ☐ At the end of the narrative, add the following statement:

"A Notice of Pattern of Violations, number xxxxxxxx, was issued on xx/xx/xx."

**Item 12.** ☐ Select "104(e)(1)"

**Item 13.** ☐ Select the "Order"

**Item 14D.** ☐ Select "Written Notice"

**Item 14E.** ☐ Select from drop down menu 104(e)(1) Notice violation number

**Item 14F.** ☐ with its issuance date

**Item 15.** ☐ "Area or Equipment" describe the area or equipment affected

**Item 16.** ☐ "Termination Due Date and Time" is left blank.

## Section 104(e)(1): Order

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/9/2020	2. Time (24 Hr. Clock) 1050	3. Citation/ Order Number	1000001
4. Served To Mark Blackburn, Foreman		5. Operator Mountain Momma Coal Mine	
6. Mine Mountain Momma Mine		7. Mine ID 01-23456 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>Accumulation of loose and compacted coal with oil spillage is present on the No. 1 section 1A belt tail pulley. The accumulation is up to 15" in depth covering the tail piece and bearings. The condition extends outby for 21', with 16' of the belt making contact with the running belt. The materials are compacted within the tail roller and guard which is generating heat. Oil spillage from the down drill at this location has saturated the accumulations in a large area 30" by 48" 1/4" in depth. Standard 75.400 was cited 64 times in</p> <p style="text-align: center;"><u>"A Notice of Pattern of Violations, number xxxxxxx, was issued on xx/xx/xx."</u></p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.400
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 010
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (e) (1)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input checked="" type="checkbox"/>		E. Citation/ Order Number 1000000	F. Dated Mo Da Yr 4/09/2020
15. Area or Equipment 1A Belt			
16. Termination Due A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 9845910	21. Primary or Mill	
22. AR Name John Doe		23. AR Number 01234	
<p><small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small></p>			

## Section 104(e)(2) Order

Where miners have been withdrawn under Section 104(e)(1), an additional withdrawal order shall be issued upon MSHA's finding of a significant and substantial violation during any subsequent inspection.

### Notes: 104(e)(2) Order

**Item 8.** ☐ At the end of the narrative, add the following statement:

“A Notice of Pattern of Violations, number xxxxxxxx, was issued on xx/xx/xx.

**In Item 12.** ☐ Enter "104(e)(2)"

**Item 13.** ☐ Check the "Order" box;

**Item 14D.** ☐ Complete

**Item 14E.** ☐ With the Notice of Pattern of Violations number

**Item 14F.** ☐ With its issuance date; for 104(e)(2) orders

**Item 14B.** ☐ Check “Order”

**Item 14E.** ☐ Drop down menu select the number from the 104(e)(1) order

**Item 14F.** ☐ Auto fill with selected the 14E

**Item 15.** ☐ "Area or Equipment" describe the area or equipment affected

**Item 16.** ☐ "Termination Due Date and Time" is left blank.

## Section 104(e)(2) Order

Mine Citation/Order

U.S. Department of Labor  
Mine Safety and Health Administration



### Section I--Violation Data

1. Date Mo Da Yr 4/20/2020	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 1000002
4. Served To Mark Blackburn, Foreman		5. Operator Mountain Momma Coal
6. Mine Mountain Momma Mine		7. Mine ID 46-0001 (Contractor)

### 8. Condition or Practice

8a. Written Notice (103g) ☐

The operator has failed to guard the couplers connecting the speed reducers of both electric motors to the belt drive roller on the #4C belt drive take-up. Grease fittings were located 3" and 12" from the exposed rotating couplers. The rotating couplers were 26" from the ground. The opening 23" x 22" that exposes these rotating couplers on both engines. The belt drive was running and in service when examined.  
A notice of pattern of violations number XXXXXXXX was issued on XX/XX/XXXX.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.1722 (a)
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### Section II--Inspector's Evaluation

#### 10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely ☒ Occurred ☐

B. Injury or illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays Or Restricted Duty ☐ Permanently Disabling ☒ Fatal ☐

C. Significant and Substantial: Yes ☒ No ☐ D. Number of Persons Affected: 001

11. Negligence (check one) A. None ☐ B. Low ☐ C. Moderate ☒ D. High ☐ E. Reckless Disregard ☐

12. Type of Action 104 (e) (2) 13. Type of Issuance (check one) Citation ☐ Order ☒ Safeguard ☐ Written Notice ☐

14. Initial Action  
A. Citation ☐ B. Order ☒ C. Safeguard ☐ D. Written Notice ☐ E. Citation/  
Order Number 100001 F. Dated Mo Da Yr  
4/9/2020

#### 15. Area or Equipment

The 4 C Belt.

16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)

### Section III--Termination Action

#### 17. Action to Terminate

A guard has been installed and the couplers are not properly guarded.

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)  
4/20/2020 0000

### Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 0000001 21. Primary or Mill  
22. AR Name John Doe 23. AR Number 02222

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

### **Section 104(e)(3): Termination**

The pattern of violations that resulted in the issuance of a notice shall be terminated if an MSHA inspection of the entire mine finds no significant and substantial violations of mandatory standards. However, a mine operator can reestablish a pattern of violation status as a result of subsequent significant and substantial violations.

#### **Notes: Section 104(e)(3)**

Terminating a Notice of Pattern of Violations is done on a Mine Citation/Order Continuation Form 7000-3a using the initial number from the Notice of Pattern of Violations.

## Section 104(e)(3) Termination

Mine Citation/Order  
Continuation



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 04/09/2020	3. Citation/ Order Number 1000000 - 01
4. Served To Mark Blackburn, Foreman	5. Operator Mountain Momma Coal Mine	
6. Mine NO. 1	7. Mine ID 46-00001 (Contractor)	

Section II--Justification for Action

xxxxxx Mine underwent an inspection of the entire mine which was completed on xx/xx/xx without being cited for a violation which could significantly and substantially contribute to the cause and effect of a mine safety or health hazard. Therefore, the mine is no longer subject to orders of withdrawal issued pursuant to Section 104(e) of the Federal Mine Safety and Health Act of 1977. Accordingly, the Notice of Pattern of Violations is terminated."

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 0000001		
11. AR Name Nick Dotson	AR Number 00000	12. Date Mo Da Yr 7/01/2020	13. Time (24 Hr. Clock) 14:09

MSHA Form 7000-3a, Mar 85 (revised)

## **Section 104(g)(1): Orders**

Section 104(g)(1) of the Mine Act provides for the withdrawal of untrained miners from a mine or mill until they have received the training required by Section 115 of the Mine Act. The purpose of a Section 104(g)(1) order is to eliminate the hazard that untrained or inadequately trained miners pose to themselves and to other miners. Section 104(g)(1) orders shall be evaluated for S&S using the criteria in Section 10 of this Chapter 3.

**Underground Mines (Part 48).** Sections 48.5, .6, .7, .8, and .11 are the only standards which may be cited under 104(g)(1) for untrained miners.

**Surface Mines and Surface Areas of Underground Mines (Part 48).** Sections 48.25, .26, .27, .28, and .31 are the only sections that may be cited under 104(g)(1) for untrained miners.

**Surface Mines (Part 46).** Sections 46.5, .6, .7, .8, and .11 are the only sections that may be cited under 104(g)(1) for untrained miners.

Citations shall **not** be issued in lieu of Section 104(g)(1) orders **unless** the miner cannot be trained because he or she is no longer employed at the mine, was permanently disabled, or was fatally injured.

When miners have received training but there are violations involving training plans, cooperative training programs, records of training, compensation for training, etc., Section 104(g)(1) orders of withdrawal should not be issued. Issuances of 104(a) or 104(d) actions, are appropriate.

Section 104(g)(1) orders of withdrawal shall be written for the following categories of untrained miners:

- new miners;
- experienced or newly-hired experienced miners;
- miners assigned to perform a task for which they have had no previous experience;
- miners whose annual refresher training is not up-to-date; and
- miners or applicable persons working on mine property who have not been given hazard training.



### **Violations Involving One Miner:**

If one miner is involved, but two or more sections of Part 46 or Part 48 have been violated, one Section 104(g)(1) order will be issued citing the standard that would have the most serious immediate consequences. For example, failure to task train a miner operating an unfamiliar piece of equipment may have a greater immediate consequence to the health and safety of the untrained miner than the lack of annual refresher training. A description of the additional deficiencies should be included in the condition and practice portion of the order to ensure compliance with all training deficiencies, prior to termination.

**Example:** One underground miner was found not task trained and had not received annual refresher training. Only one Section 104(g)(1) order would be issued.

### **Violations Involving More Than One Miner:**

- a. When more than one untrained miner is withdrawn from a mine, a single 104(g)(1) order is appropriate provided the Part 46 or Part 48 training violation is the same for all the miners.
- b. Where multiple miners are involved and different violations of the training requirements have occurred for each miner, one or more 104(g)(1) orders would be issued, depending on the circumstances.

**Example:** Eight underground miners did not have the requisite safety training (three did not receive new miner training; two were not task trained; three missed annual refresher training). Three separate 104(g)(1) orders would be issued: one citing 30 CFR 48.5; one citing 30 CFR 48.7; and one citing 30 CFR 48.8. The untrained miners' names will also be listed in Item 15 "Area or Equipment" on each violation.

- c. When more than one miner is involved in violation of the same standard, the total number of miners withdrawn will be entered in Item 10D "Number of Persons Affected" on Form 7000-3. Each miner's name will also be listed in Item 15 "Area or Equipment".
- d. A 104(g)(1) order including more than one miner may be modified to allow individual miners to return to work as soon as each miner completes the training specified in the order.

### **104(g)(1) Violations Involving Independent Contractors:**

A Section 104(g)(1) order of withdrawal would be issued to the direct employer of any miner who has not received the required training. If there is uncertainty as to who employs the miner, the order of withdrawal should be issued to the operator with the greatest physical presence at the mine. Any discrepancies occurring after the miner is withdrawn can be resolved through subsequent modification actions.

### **Citations Issued With Section 104(g)(1) Orders:**

Citations shall not be issued in addition to 104(g)(1) orders for the same violation except in instances of overlapping compliance responsibility between contractors and mine operators. There may be circumstances where it is appropriate to issue citations or orders for training violations to both the independent contractor and the production operator.

**Example:** A miner is the employee of an independent contractor and the production operator had agreed to provide the miner training in accordance with the mine's MSHA approved training plan. The miner has not received the required training. A 104(g)(1) order would be issued to the independent contractor and, as appropriate, a 104(a) citation, or a 104(d)(1) citation, or a 104(d)(1) order, or a 104(d)(2) order would be issued to the production operator.

## Section 104(g)(1) Orders

### Notes: 104(g)(1) Orders

**Item #8.** ☐ Condition and Practice of the order describes the hazard and clearly states the prohibited activity. Include the statement “The Federal Mine Safety and Health Act of 1977 declares that untrained miner(s) are a hazard to themselves and others.”

**Items # 9C.** ☐ Enter the first standard cited.

**Item #12.** ☐ 104(g)(1) is completed.

**Item #15.** ☐ “Area and Equipment” indicate the person(s) to be withdrawn.

**Items # 16A, 16B.** ☐ Leave blank. Orders have no Termination Due.

# 104(g)(1) Order

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/16/2020	2. Time (24 Hr. Clock) 0830	3. Citation/ Order Number 1000003	
4. Served To Charlie Hustle, Owner		5. Operator Big Red Machine	
6. Mine Riverfront Plant		7. Mine ID 15-01975 (Contractor) XYZ	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>An independent contract truck driver operating a red Peterbilt 18 wheeler (Tag #BR549) was unable to provide a valid record of annual retraining. The annual retraining documentation provided by the driver was dated 1/10/2019. The plant operator must withdraw the truck driver from the property until the required training is received. The Federal Mine Safety and Health Act of 1977 declares that an untrained miner is a hazard to themselves and others.</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 48.28 (a)
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (g) (1)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input checked="" type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	
F. Dated Mo Da Yr			
15. Area or Equipment Joe Morgan, Driver			
16. Termination Due			
A. Date Mo Da Yr	B. Time (24 Hr. Clock)		
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated			
A. Date Mo Da Yr	B. Time (24 Hr. Clock)		
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 7777777	21. Primary or Mill	
22. AR Name Sparky Anderson		23. AR Number 51050	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

## Section 107(a): Order of Withdrawal

- A. Imminent danger is defined as the existence of any condition or practice in a mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated. An imminent danger exists only when the hazardous condition has a reasonable potential to cause death or serious injury to a miner if normal mining operations continue before the dangerous condition can be eliminated.
- B. An imminent danger order cannot be issued for an accident which has already occurred unless the danger still exists.
- C. Immediate physical exposure to the imminent danger does not have to be witnessed by the inspector to issue a 107(a).
- D. A 107(a) order(s) immediately removes miners from exposure to a serious hazard. The imminent danger must exist at the time an order is issued. When an imminent danger is observed the inspector immediately issues an "Oral 107(a) Order," to withdraw the exposed miner(s) from danger.

**Note taking:** The Oral 107(a) should be documented in the field notes as soon as practical.

### Notes: 107(a) Orders

**Item #8.** ☐ Condition and Practice of the order has two required statements:

1. An oral imminent danger was issued to "John Doe, title, time issued, location and reason for issuance.
2. "This condition is an imminent danger."

**Items # 9A, 9B, 9C, 10 and 11** ☐ are not filled out.

**Item #12.** ☐ 107(a) is completed

**Item #13.** ☐ Select Order

**Item #14.** ☐ Not filled out

**Item #15.** ☐ Describe the "Area or Equipment" affected

**Item #16.** ☐ "Termination Due Date and Time," are left blank

**Item #17.** ☐ Describe what actions were taken to terminate the condition.

## Section 107(a) Order of Withdrawal

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/22/2020	2. Time (24 Hr. Clock) 0653	3. Citation/ Order Number 8533280	
4. Served To Shane Cornish, Mine Manager		5. Operator Cornish Mining Company, LLC.	
6. Mine Cornwall Mine		7. Mine ID 05-01234 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>An oral 107(a) imminent danger order was issued to Shane Cornish, the Mine Manager at the Jaw crusher at the mill at 06:53 AM. this morning for the following reason:</p> <p>The Welder was observed inside the jaw crusher hard facing (welding) the wear-plates. The crushers counter balance wheel was not secured with the locking mechanism to prevent the accidental movement of the jaw plates. This condition exposed the Welder to a potentially fatal injury by crushing him between the wear-plates; if the counter balance wheel were to cam-over and cause the jaw to move back and forth. This condition constituted an imminent danger to the Millwright. The Mine Manager immediately withdrew the Welder from the crusher and instructed the Welder to secure the counter balance by locking it in place.</p> <p>Citation No. 8533281 is being issued in conjunction with this order</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected:
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 107 (a)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	
15. Area or Equipment John Doe, the welder.		F. Dated Mo Da Yr	
16. Termination Due		A. Date Mo Da Yr	B. Time (24 Hr. Clock)
<b>Section III--Termination Action</b>			
17. Action to Terminate The Mine Manager withdrew the Welder from the jaw crusher.			
18. Terminated		A. Date Mo Da Yr 4/22/2020	B. Time (24 Hr. Clock) 0654
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 4262847		21. Primary or Mill
22. AR Name			23. AR Number
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

## Section 104(a): Citation in conjunction with 107(a) Order

- A. A 104(a) Citation(s) is issued in conjunction with the 107(a) when there is a violation of a mandatory standard that has been violated that caused or contributed to the imminent danger.
- B. Describe the condition(s) or practice(s) which created the imminent danger situation and why the risk of hazard will occur before it can be remedied. In most cases it will mirror the description of the 107(a) order.
- C. The following statement in the Item 8 narrative should be added:

This citation was issued for the following condition that was contributing factor to the issuance of the Imminent Danger Order No. xxxxxxxx dated\_\_\_\_. Therefore no abatement time was set.

### Notes: 104(a) Citation in conjunction with 107(a) Order

**IAS:** When the 104(a) citation is issued in IAS you have to connect the citation to the imminent danger order through the block called: **Related Order Number**. This block has a drop-down menu that you click and you can select the Imminent Danger Order number that is connected to the 104(a) citation/order that is being issued. This will link the two and allow the IAS to issue the 104(a) without having a Termination Due Date.

This is the only difference from issuing a normal 104(a) Citation.

Related Order Number
<input type="text"/>

# 104(a) Citation Attached to 107(a) Order

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/22/2020	2. Time (24 Hr. Clock) 0655	3. Citation/ Order Number 8533281	
4. Served To Shane Cornish, Mine Manager		5. Operator Cornish Mining Company, LLC.	
6. Mine Cornwall Mine		7. Mine ID 05-01234 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>The counter balance wheel was not secured prior to commencing work inside the Jaw Crusher. The Welder was observed inside the jaw crusher hard facing (welding) the wear-plates. The crushers counter balance wheel was not secured with the locking mechanism to prevent the accidental movement of the jaw plates. This condition exposed the Welder to a potentially fatal injury by crushing him between the wear-plates; if the counter balance wheel were to cam-over and cause the jaw to move back and forth. This condition constituted an imminent danger to the Welder. The Mine Manager immediately withdrew the Welder from the crusher and instructed the Welder to secure the counter balance by locking it in place.</p> <p>This citation was issued for the following condition that was a contributed factor to the issuance of an imminent danger order No. 8533280 dated 4/22/2020. Therefore, no abatement time was set.</p> <p>Standard 77.404(c) was cited 1 time in two years at mine 0501234 (1 to the operator, 0 to a contractor).</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input checked="" type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment			
16. Termination Due			
A. Date Mo Da Yr		B. Time (24 Hr. Clock)	
<b>Section III--Termination Action</b>			
17. Action to Terminate The Mine Manager withdraw the Welder from the Jaw Crusher. The counter balance wheel was secured. The Mine Manager held a safety meeting with the crew and discussed the preventive measures that should have taken place prior to commencing their work.			
18. Terminated	A. Date Mo Da Yr 4/22/2020	B. Time (24 Hr. Clock) 0656	
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 4262847		21. Primary or Mill
22. AR Name			23. AR Number
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			



## **Section 107(b)(1): Order Notices**

### **(Generally not used)**

Section 107(b) provides unique enforcement procedures and requirements to contend with the unusual circumstances of dangerous conditions that cannot be effectively abated using existing technology. Accordingly, enforcement personnel or District Managers shall not issue orders or take any action under Section 107(b) before consulting with the Regional Administrator of Mine Safety and Health Enforcement.

Further, a Section 107(b) order is not to be modified, terminated, or vacated by inspectors or district officials without prior consultation with the Regional Administrator of Mine Safety and Health Enforcement.

## Section 110(g): Miners smoking or carrying smoking materials in prohibited areas

Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty.

### Notes: 110(g) Miners Smoking

**Item 4.** ☐ of the Mine Citation/Order form is completed with the miner's name.

**Items 5, 6, and 7.** ☐ are completed with the operator's name, the mine name, and the Mine ID number.

**Item 8.** ☐ is completed with a description of the observed violation. The following statement shall be included at the end of that description:

"This is notification to the individual that he or she will receive a civil penalty for willfully violating a mandatory safety standard relating to smoking or the carrying of smoking materials, matches, or lighters."

**Item 9B.** ☐ is completed with "110(g)".

**Item 9C.** ☐ is completed with one of the standards violated: 56/57.4100, 57.5041, 56/57.6904, 56/57.7805, 57.22101, 57.22102, 57.22105, 75.1702, and 77.1711.

Complete Section II

**Items 10A through D.** ☐ based on the determination made at the time the violation was observed.


**Item 11.** ☐ will always be completed with at least "high" negligence checked.

**Item 16.** ☐ is not completed.

One copy of the completed notice is given to the miner.

A copy of the notice will be emailed to the MSHA Office of Assessments in Arlington, Virginia for a penalty to be proposed. The email will provide the last known personal address for the miner(s) so that the proposed assessment can be processed. This is a serious hazard. If there are any mitigating facts to be considered in proposing the penalty, the email shall so state. Note: the assessment has a statutory maximum.

## Section 110(g): Notice (see 104(a) to operator below)

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<b>Section I--Violation Data</b>				
1. Date	Mo Da Yr 4/20/2020	2. Time (24 Hr. Clock)	3. Citation/ Order Number 1000003	
4. Served To	Joe Camel		5. Operator Mountain Momma Coal	
6. Mine	Mountain Momma Mine		7. Mine ID 46-0000 (Contractor)	
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>	
<p>While investigating a 103g complaint which alleged miners are smoking underground, a smoker's search of Joe Camel, conducted by the section foreman and MSHA revealed that Mr. Camel had two smoked cigarette butts in his possession. This is a notification that Mr. Camel will receive a civil penalty for violating a mandatory safety standard related to carrying smoking materials.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act 110 (g)	C. Part/Section of Title 30 CFR 75.1702	
<b>Section II--Inspector's Evaluation</b>				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date Mo Da Yr		B. Time (24 Hr. Clock)		
<b>Section III--Termination Action</b>				
17. Action to Terminate The smoking material's were removed from the mine.				
18. Terminated				
A. Date Mo Da Yr 4/20/2020		B. Time (24 Hr. Clock) 1257		
<b>Section IV--Automated System Data</b>				
19. Type of Inspection (activity code) E01		20. Event Number 2234567		21. Primary or Mill
22. AR Name John Doe				23. AR Number 02222
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>				

## Section 104(a): Issued to the Operator (Smoking)

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 4/20/2020	2. Time (24 Hr. Clock) 1142	3. Citation/ Order Number 1000004	
4. Served To Mark Blackburn, Foreman		5. Operator Mountain Momma Coal	
6. Mine Mountain Momma Mine		7. Mine ID 46-00002 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>During a smokers search on the active 001 mining section, a miner had two smoked cigarettes in his jacket pocket. It is reasonably likely a miner smoking on the active mining section would ignite explosive gases such as methane or cause a mine fire when the cigarette butt was thrown on the dry coal bottom resulting in a fatal injury to the miner.</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.1702
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment			
16. Termination Due			
A. Date Mo Da Yr 4/20/2020	B. Time (24 Hr. Clock) 1305		
<b>Section III--Termination Action</b>			
17. Action to Terminate A smokers search was performed on all miners on the active section and the mine operator has agreed to conduct more frequent smokers searches with the workforce.			
18. Terminated			
A. Date Mo Da Yr 4/20/2020	B. Time (24 Hr. Clock) 1257		
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 0000001	21. Primary or Mill	
22. AR Name John Doe		23. AR Number 02222	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

## Section 314(b): Notice to provide Safeguard(s)

### NOTICE TO PROVIDE SAFEGUARD(S): UNDERGROUND COAL MINES ONLY.

Section 314(b) of the Mine Act is specific to underground coal mine only. The safeguard is intended for use in regards to minimizing haulage and hoisting related hazards with respect to the transportation of men and materials that are identified at a specific mine.

When an inspector identifies a hazard specific to the mine and similar to those identified in 30 CFR, *Subpart O-Hoisting and Mantrips*, Sections 75.1403-2 through 75.1403-11, inspector(s) will issue a notice to provide safeguards to the mine operator if one has not been previously issued.

Section 314(b) is specific to transportation of men and materials, and should not be used outside of that intended scope.

When citing an existing safeguard that has been previously issued to the mine, the originally issued safeguard will be referenced in the number 14 blocks (C, E, and F), and the Initial Action blocks on the Mine Citation/Order Form 7000-3. On a previously issued Safeguard in which the mine has violated their issued notice, item 9C – Part/Section of Title 30 CFR, cite 75.1403.

#### Notes: Safeguards

When issuing a citation or order for a previously issued safeguard that has been issued to the mine, (Item #8) Condition and Practice in the original Safeguard has to match the hazard that is identified in that Safeguard.


**For example:** if the original safeguard was issued for reducing the speed of mantrips to a maximum speed limit – then the 104(a) citation/order should address that the mine is being cited for violating the maximum speed that was mandated in the original safeguard.

Because safeguard notices are not conferenced, MSHA issued a policy letter that sets forth procedures for Technical Citations when underground coal mine operators seek to challenge MSHA safeguard notices before the Federal Mine Safety and Health Review Commission.

Hyperlink: PROGRAM POLICY LETTER NO. P14-02

<W:\ALLMSHA\DIRECTIV\PPLs 2011-2014\P14-V-02 Technical Citations for Safeguards.pdf>

## Section 314(b): Notice to provide Safeguard(s)

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<b>Section I--Violation Data</b>				
1. Date	Mo Da Yr 4/24/2020	2. Time (24 Hr. Clock)	3. Citation/ Order Number 8533282	
4. Served To	Shane Cornish, Mine Manager		5. Operator Cornish Mining Company, LLC.	
6. Mine	Cornwall Mine		7. Mine ID 05-01234 (Contractor)	
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>	
<p>The mine has steep grades and this notice will apply to all types of mantrips. This is a notice to Provide Safeguard requiring that all types of Mantrips to travel at maximum speed of 10 MPH. The mantrips shall be operated at speeds below the maximum speed when conditions warrant to maintain control of the mantrip. Mantrips shall be provided with functioning speedometer.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.1403-7 (F)	
<b>Section II--Inspector's Evaluation</b>				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or Illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected:
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action		13. Type of Issuance (check one)		
314 (b)		Citation <input type="checkbox"/> Order <input type="checkbox"/> Safeguard <input checked="" type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action		E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				
15. Area or Equipment				
16. Termination Due				
A. Date	Mo Da Yr 4/24/2020	B. Time (24 Hr. Clock)	1700	
<b>Section III--Termination Action</b>				
17. Action to Terminate: The Safeguard has been posted on the mine bulletin board. The Safeguard has been covered and discussed with the crews. The mine has posted signs at the portal "Maximum speed 10 MPH." All the mantrips have functioning speedometers.				
18. Terminated	A. Date	Mo Da Yr 4/24/2020	B. Time (24 Hr. Clock)	1650
<b>Section IV--Automated System Data</b>				
19. Type of Inspection (activity code)	20. Event Number		21. Primary or Mill	
E01	4262847			
22. AR Name			23. AR Number	
			00000	
<p><small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small></p>				

### **Section 104(a): Citation for violation of an existing safeguard**

A safeguard issued at an underground coal mine becomes a standard for the mine. Therefore, MSHA can cite the mine for a violation(s) pertaining to the safeguard.

- A. Follow the prescribed guidelines for issuing a 104(a) citation or 104(d).
- B. Best practice is to carry a list of the issued safeguard(s) with you when inspecting. This will allow you to reference the safeguards easily. You will need the safeguard number if a violation of the safeguard is found.


#### **Notes: 104(a) Citation of Safeguard(s)**

**Item #8.** ☐ Condition and Practice

**Item #14. E** ☐ Select the Safeguard Notice Number, click on it. It will auto fill

**Item # 14 D** ☐, and **14 F** ☐ will auto fill

## Section 104(a): Citation for violation of an existing safeguard

Mine Citation/Order				U.S. Department of Labor Mine Safety and Health Administration			
<b>Section I--Violation Data</b>							
1. Date Mo Da Yr 5/12/2020		2. Time (24 Hr. Clock) 0917		3. Citation/ Order Number		8533287	
4. Served To Shane Cornish, Mine Manager				5. Operator Cornish Mining Company, LLC.			
6. Mine Cornwall Mine				7. Mine ID 05-01234 (Contractor)			
8. Condition or Practice						8a. Written Notice (103g) <input type="checkbox"/>	
<p>The Kubota Mantrip #25 was observed speeding down hill in the 1st West intake roadway. The mantrip had two passengers. The mantrip sped past, the outby foreman and one inspector standing in a cross cut adjacent to the roadway. The driver of the mantrip was stopped by the foreman waving his light. The driver was questioned by the foreman about his speed, he stated he was traveling 15 MPH at the fastest.</p>							
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>							
9. Violation		A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>		B. Section of Act		C. Part/Section of Title 30 CFR 75.1403	
<b>Section II--Inspector's Evaluation</b>							
10. Gravity:							
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>							
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>							
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>						D. Number of Persons Affected: 003	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input checked="" type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>							
12. Type of Action 104 (a)				13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input checked="" type="checkbox"/> D. Written Notice <input type="checkbox"/>				E. Citation/ Order Number 8533282		F. Dated Mo Da Yr 4/24/2020	
15. Area or Equipment							
16. Termination Due		A. Date Mo Da Yr 5/12/2020		B. Time (24 Hr. Clock) 0920			
<b>Section III--Termination Action</b>							
17. Action to Terminate The foreman exchanged the driver with one of the passengers and cautioned them to travel the speed limit of 10 MPH.							
18. Terminated		A. Date Mo Da Yr 5/12/2020		B. Time (24 Hr. Clock) 0920			
<b>Section IV--Automated System Data</b>							
19. Type of Inspection (activity code) E01		20. Event Number 4262847		21. Primary or MII			
22. AR Name						23. AR Number	
<p><small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small></p>							



## **CHAPTER 4 -HEALTH CRITERIA**

### **Documentation of Health Violations**

When health sample results indicate that there has been an overexposure to dust, chemical contaminants, etc., the following information will be documented by the inspector:

- type of contaminant
- amount of exposure as compared to what is allowed
- error factor used
- length of the miner's exposure
- personal protective equipment program (or lack of) implemented by the operator
- type of (or lack of) personal protective equipment worn when the overexposure occurred
- training provided to the miner in the use of the personal protective equipment (if appropriate)
- controls used and their condition
- feasible controls available

### **Contaminants with ceiling designations**

When there is an overexposure to an airborne contaminant that has a ceiling designation, it is appropriate to issue a 104(a) citation with an abatement time reflecting the time needed to remove miners. Miners shall not reenter the area until the hazardous condition(s) is corrected except for those miners who are working to establish the necessary engineering controls. These miners must wear appropriate personal protective equipment. 30 CFR §§ 56.5001(c) and 56.5005 should be considered as one standard and §§ 57.5001(c) and 57.5005 should be considered as one standard. These should be entered in Item 9C of the Mine Citation/Order Form as §§ 56.5001(c)/56.5005 and §§ 57.5001(c)/57.5005, respectively.

The above situation warrants issuance of a 107(a) imminent danger order only if the concentration(s) measured and the work condition(s) create a situation that is

immediately dangerous to the exposed miners.

## **Imminent danger situations involving chemical hazards**

### **A. IDLH Levels**

MSHA considers the atmosphere "immediately harmful to life" whenever a contaminant's Immediate Danger to Life or Health (IDLH) limit is exceeded. The IDLH limits for various contaminants can be found in the "National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards". However, imminent danger situations can exist below IDLH levels due to a miner's length of exposure, work activity, or time to escape. The following procedures shall be utilized whenever a contaminant's IDLH limit, plus the sampling factor, is exceeded:

1. A 107(a) order of withdrawal with contributing citations and/or orders shall be issued noting the contaminant levels and the conditions constituting the imminent danger situation. (See: Chapter 3, Section 104(a) Citation is conjunction with 107(a) Order on page: 36)
2. The order of withdrawal requires that all miners be immediately withdrawn from the contaminated atmosphere. The order should note that only those miners wearing appropriate personal protective equipment, and who are working on establishing engineering controls, are permitted to reenter the affected area.
3. Additionally, as required by 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any unprotected miner may reenter an atmosphere immediately harmful to life.

### **B. Other Situations**

In some cases an imminent danger may exist even though a contaminant's IDLH limit is not exceeded. Continual exposure at high levels and absorption through all routes of exposure can result in similar harm to miners. The issuance of an imminent danger order may be warranted if dizziness, headaches, slowed reflexes, lack of coordination, or other serious symptoms are shown by miners and are believed to be caused by exposure. Including direct contact, along with consideration of the work environment, and serious physical harm or death may occur. The following procedures are to be implemented whenever there is exposure that may cause serious physical harm or death:

1. A 107(a) order of withdrawal with contributing citations and/or

orders shall be issued noting the contaminant levels and the conditions constituting the imminent danger situation.

2. The order of withdrawal requires that miners be immediately withdrawn from the contaminated atmosphere. It should be noted on the order that only those miners wearing appropriate personal protective equipment, and who are working to establish engineering controls, are permitted to reenter the affected area (Reference as 104(c) personnel).
3. Additionally, as required in metal and nonmetal mines under 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any miner enters an atmosphere immediately harmful to life.

**Example:** A miner has been exposed to 700 parts per million (ppm) of carbon monoxide. He has been drilling in the same area for the last four hours. The miner complains of dizziness, headache, nausea, and is uncoordinated or exhibiting severe mental confusion. The miner's partner indicates that he also has similar symptoms. Further investigation reveals that the drill has fallen on both miners three times within the last hour due to their lack of concentration and inability to coordinate drilling activities. Ventilation in the area is not adequate due to holes and blockages observed in the vent tubing providing air into the area.

In both of the above scenarios, due to the high exposure to a contaminant, the length of exposure time, the noted symptoms of miners, the safety hazards associated with incorrectly operating equipment, and the hazardous workplace environment, an imminent danger situation exists. In these cases, inspectors would issue a 107(a) imminent danger order and withdraw affected miners from their workplace.

## **Negligence and gravity evaluations - health violations**

The following instructions apply to Section II of the Mine Citation/Order Form unless otherwise specified.

### **A. Negligence**

The degree of negligence is dependent on what the mine operator did **before** MSHA collected the samples that established the violation. Factors to be considered by the inspector include items such as:

1. Whether the mine operator knew or had been told of the high contaminant

level(s);

2. The condition of engineering control systems;
3. The amounts and accuracy of dust, fume and gas surveys;
4. Whether engineering control systems had been provided;
5. Whether the operator provided appropriate personal protection, whether it was fit-tested (if appropriate), whether personnel were trained in its use and limitations (if appropriate), and whether it was worn, properly maintained, cleaned.

## **B. Gravity**

1. **Likelihood:** Consider "Reasonably Likely" or "Highly Likely" if respiratory or hearing protection was not provided; if the respiratory or hearing protection was not adequately maintained; if the individual was not respirator fit-tested; if the person was not trained in the use or limitations of the respirator; or if the protection was not suitable for the hazard. Also, consider "Reasonably Likely" or "Highly Likely" if the respiratory or hearing protection program had deficiencies which caused the personal protection to be inadequate.

**Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m<sup>3</sup> and 0.1 mg/m<sup>3</sup>, operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, .5001(a)/.5005 citations for overexposure to nuisance particulates and to silver metals in the above concentration range cannot be evaluated as S&S. Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m<sup>3</sup> can be evaluated as S&S if adequate respiratory protection was not worn.

Occurrence would be marked as "Unlikely" if appropriate respiratory protection was being worn, was appropriate to the hazard, the miner was respirator fit-tested, and the mine operator had a respiratory protection program in consistent with ASNI-Z88.2-1969.

2. **Severity:** Overexposure to airborne contaminants and physical agents should be marked according to the severity of the disease they potentially produce.

**Examples:** Respirable Crystalline Silica exposure causes silicosis which is permanently disabling and sometimes fatal; radon daughter (radon

progeny) exposure can cause lung cancer which can be fatal; and excessive noise causes hearing loss which can be permanently disabling.

3. **Number of Persons Affected:** For most situations, indicate the number of miners sampled. There are situations, however, where more workers should be entered in Item 10D of the Mine Citation/Order Form. If other miners perform the same job on different shifts or if several miners rotate during the same shift and perform the identical job, that number should be entered in this box.

**Example:** A day-shift crusher operator is overexposed to respirable crystalline silica. Two other miners operate the crusher on the evening shift. Item 10D would have the number "3" entered for Persons Affected.

### C. Significant and Substantial Violations

The "Yes" block in Item 10C must be marked if it is reasonably likely that one or more miners will or could suffer at least "Lost Workdays" or "Restricted Duty" as a result of exposure to the contaminant.

The "No" block in Item 10C is to be marked if it is not reasonably likely that one or more miners will or could suffer at least "Lost Workdays" or "Restricted Duty" as result of exposure to the contaminant.

**Note:** Since all overexposure limits have a likelihood of health impairment, this evaluation is dependent on the use of adequate personal protective equipment.

### Documentation of airborne contaminant violations

**A. In Item 8 include the following information:** The Threshold Limit Value (TLV) or the exposure limit; the error factor; the contaminant; the concentration; the job title of the person sampled; the equipment and area where the person was working; and the reason for the overexposure. Always include information as to whether or not the miner was wearing approved respiratory protection with an adequate training, fit-testing, and maintenance program. Include a statement noting the sample date which is the date entered as the occurrence date in IAS.

When there is an overexposure to airborne contaminants (except asbestos or those having ceiling limits), sections 56.5001(a) and 56.5005 should be considered as one standard and §§ 57.5001(a) and 57.5005 should be considered as one standard. Therefore, enter the standard in Item 9C as §§ 56.5001(a)/56.5005 and §§ 57.5001(a)/57.5005, respectively.

Similarly, when overexposures are for asbestos, sections 56.5001(b) and 56.5005

should be considered as one standard and §§57.5001(b) and 57.5005 should be considered as one standard. Therefore, enter the standard in Item 9C as §§ 56.5001(b)/56.5005 and §§ 57.5001(b)/57.5005, respectively.

**B.** Standard 56.5005 and standard 57.5005 can be written alone **only** where MSHA requires a respiratory protection program for compliance and the mine operator fails to follow the program's requirements or the overexposed miner is not wearing a respirator where required. Standard 56.5005 and standard 57.5005 can be cited without resampling if:

1. The area or equipment in question was observed operating without miner(s) complying with the respiratory protection program mandated by an outstanding citation for dust overexposure; or
2. The mine operator had been allowed to operate because all feasible engineering or administrative controls had been implemented but a respiratory protection program was still required by MSHA to gain compliance.

**C.** These citations should be evaluated as S&S if a respirator was not being worn; if the miner sampled had not been properly fit-tested with the respirator being worn; if the respirator was not properly maintained; or if the respirator was not selected in accordance with American National Standards Institute (ANSI) Z88.2-1969. Additionally, there may be other circumstances where the citation should be evaluated as S&S. Inspectors should review ANSI requirements and the circumstances of each case to determine if a citation should be evaluated as S&S.

**Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m<sup>3</sup> and 0.1 mg/m<sup>3</sup>, operators must use engineering or administrative controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, .5001(a)/.5005 citations for overexposure to nuisance particulates and to silver metal in the above concentration range cannot be evaluated as S&S. Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m<sup>3</sup> should be evaluated as S&S if adequate respiratory protection was not worn.

**D.** If approved protection was not being worn, the initial termination due date will be the time necessary for the operator to provide appropriate respirators and develop a respiratory protection program in accordance with ANSI Z88.2-1969.

Inspectors should also include a statement in citations that when a respiratory protection program was implemented in accordance with ANSI Z88.2-1969, the citation will be extended to allow the mine operator time to implement engineering

or administrative controls.

E. If an abatement extension is issued, the extension should state what items are required to be accomplished by the abatement due date.

F. If resampling has been done and results have not been received, an extension of time is only needed if the termination time is past due.

G. When an extension of time is required because MSHA sampling indicated that additional work needs to be completed by the mine operator, inspectors will issue an appropriate extension.

H. When resampling results indicate that contaminant levels are in compliance, enter the date and time the termination was issued in Item 12 of Form 7000-3a.

#### **Orders of withdrawal - airborne contaminant violations**

A. If appropriate personal protection is being worn but progress has not been made towards compliance, resampling must be conducted to determine if an overexposure still exists before issuing a Section 104(b) order of withdrawal.

B. If the due date and time has passed, a Section 104(b) order of withdrawal must be issued if the operator or contractor has failed to provide appropriate respiratory protection, if the miner was not wearing an appropriate respirator, or if the operator has not implemented an appropriate respiratory protection program. Once an appropriate respiratory protection program is implemented or an appropriate respirator has been provided and/or worn, the Section 104(b) order can be modified to allow work to continue until feasible engineering or administrative controls are implemented.

**Note:** If the operator or contractor can install feasible engineering or administrative controls more quickly than acquiring the respiratory protection, the quicker means of abatement should be required.

A 104(b) order must also be issued if the operator or contractor has failed to implement feasible engineering or administrative controls within the established abatement time and further extension of time is not warranted. Once appropriate engineering controls have been implemented, the 104(b) order can be modified to allow work to continue until resampling is conducted and the results analyzed to determine compliance. The order can be terminated if resampling indicates that the mine operator is in compliance.

C. When an inspector issues a Section 104(b) order of withdrawal, item 8 of the

citation/order form should note, in detail, the reasons for the operator's failure to abate the citation and what must be done to achieve abatement of the condition or practice that caused issuance of the citation. It also should be noted in the 104(b) order, if applicable, that the failure to abate the violation involved a deficiency in the use of personal protective equipment (e.g., respirators).

D. When an operator continues production in violation of a 104(b) order or neglects to abide by the conditions under which the 104(b) order was modified, the inspector must issue a 104(a) citation to the operator for a violation of Section 104(b) of the Mine Act and require, as an abatement condition, that a respiratory protection program be instituted for compliance.

### **Generic wording - chemical contaminant or dust citation**

“The (job description) (location description) was exposed to a (shift or time weighted average) of (contaminant) on (sampling date). This exceeded the Threshold Limit Value (TLV) times the error factor of (enter factor). The analytical results were received and the citation was issued on (date citation was issued).”

Include language in the citation regarding the possible sources of the contaminant and any obvious deficiencies of the control systems; the type and condition of any personal protective equipment; and, if a respirator was used, whether or not a respirator program consistent with ANSI Z88.2-1969 was in place. When a respiratory protection program is nonexistent or deficient, state that the abatement time will be extended, if necessary, after a respiratory protection program consistent with ANSI Z88.2-1969 is in place so as to allow a reasonable period for the installation of controls.



## Health Citations

### Welding Fume Citation 104(a) S&S

#### Citation 1230006 (Welding Fume Citation S&S)

##### **Section I – Violation Data**

Box 1 ☐ *Date* - This is the date the citation is issued. In most cases this is also the date that the sample results are received, and it was determined that a violation occurred.

Box 2 ☐ *Time* - This is the time that the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date, the issue date and occurrence date may be the same.

Box 8 ☐ *Condition or Practice* –

List the metal fume and/or metal dust concentration. List all Threshold Limit Values (TLV) for the metal fume and/or metal dust. List the error factor for each metal fume and/or metal dust. The concentration, TLV and error factor will be provided by the Pittsburgh Safety and Health Technology Center laboratory. List the mechanism that produced the fume (hot process) or dust (mechanical).

## Mine Citation/Order

U.S. Department of Labor  
Mine Safety and Health Administration

## Section I--Violation Data

1. Date 10/07/2019	2. Time (24 Hr. Clock) 1355	3. Citation/ Order Number 1230006
4. Served To John Doe - Mine Manager		5. Operator Poe Dank
6. Mine Poe Dank #1		7. Mine ID 86-75309 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The repair shop welder was exposed to a full-shift time-weighted average of 1.5 mg/m<sup>3</sup> of copper fume when sampled on 10/01/2019. This amount exceeded the TLV of 1.0 mg/m<sup>3</sup> times the error factor (1.14 for Copper). The welder was air-arching using copper clad welding rods. The welder was not wearing a respirator or enrolled in a respirator protection program meeting the requirements of ANSI Z88.2-1969. The abatement time is to allow the mine operator to implement engineering controls and establish a compliant respiratory protection program.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.5001(a)/.5005
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## Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment			

16. Termination Due	A. Date 10/8/2019	B. Time (24 Hr. Clock) 1455
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## Section III--Termination Action

## 17. Action to Terminate

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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## Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 5000001	21. Primary or Mill P
22. Signature		23. AR Number


MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

**Welding Fume Citation 104(a) S&S Extension**

**Citation 1230006-01 (Respirable Dust S&S Extension)**

**Section II – *Justification for Action***

# WELDING FUME CITATION 104(a) S&S EXTENSION

Mine Citation/Order Continuation				U.S. Department of Labor Mine Safety and Health Administration					
Section I--Subsequent Action/Continuation Data									
1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>			2. Dated (Original Issue) Mo Da Yr 10/08/2019			3. Citation/ Order Number 1230006-1			
4. Served To John Doe - Mine Manager					5. Operator Poe Dank				
6. Mine Poe Dank #1					7. Mine ID 86-75309 (Contractor)				
Section II--Justification for Action									
<p>The mine operator enrolled affected miners into an ANSI Z88.2 1969 compliant respiratory protection program. This citation is extended to allow the operator time to install engineering controls that will reduce the affected miner exposure below the TLV.</p>									
See Continuation Form <input type="checkbox"/>									
Section III--Subsequent Action Taken									
8. Extended To		A. Date Mo Da Yr 10/15/2019		B. Time (24 Hr. Clock) 06:00		<input type="checkbox"/> C. Vacated <input type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified			
Section IV--Inspection Data									
9. Type of Inspection			10. Event Number 5000001						
11. Signature			AR Number		12. Date Mo Da Yr 10/09/2019		13. Time (24 Hr. Clock) 14:05		
MSHA Form 7000-3a, Mar 85 (revised)									


## **Welding Fume Citation 104(a) S&S Termination**

### **Citation 1230006-02 (Welding Fume Termination S&S)**

#### **Section II – *Justification for Action***

When terminating any citation where engineering and administrative controls are installed to reduce exposure, all controls should be listed in the Justification for Action.

## WELDING FUME CITATION 104(a) S&S TERMINATION

Mine Citation/Order Continuation				<b>U.S. Department of Labor</b> Mine Safety and Health Administration					
Section I--Subsequent Action/Continuation Data									
1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>			2. Dated (Original Issue) Mo Da Yr 10/08/2019			3. Citation/Order Number 1230006-02			
4. Served To John Doe - Mine Manager					5. Operator Poe Dank				
6. Mine Poe Dank #1					7. Mine ID 86-75309 (Contractor)				
Section II--Justification for Action									
<p>The Repair Shop Welder was resampled on 10/15/2019 and was found to be exposed to a full-shift time-weighted average of 0.8 mg/m<sup>3</sup> of copper fume. This amount is less than the 1973 ACGIH TLV exposure limit of 1.0 mg/m<sup>3</sup> times the error factor (1.14 mg/m<sup>3</sup>). The mine operator installed a portable welding fume extractor and has trained the welder on its use. The Repair Shop Welder's exposure has been reduced below the TLV terminating this citation.</p>									
See Continuation Form <input type="checkbox"/>									
Section III--Subsequent Action Taken									
8. Extended To		A. Date Mo Da Yr		B. Time (24 Hr. Clock)		<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified			
Section IV--Inspection Data									
9. Type of Inspection E01			10. Event Number 5000001						
11. Signature			AR Number		12. Date Mo Da Yr 10/21/2019		13. Time (24 Hr. Clock) 09:00		
MSHA Form 7000-3a, Mar 85 (revised)									

## Total Dust Violation 104(a) NS&S

### Citation 1230013 (Total Dust Citation)

#### *Section I – Violation Data*

Box 1. ☐ Date - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

#### **Section II – Inspector's Evaluation**


Line A. *Injury or Illness (has)(is):* Unlikely.

Line B. *Injury or illness could reasonably be expected to be:* The illness will be dependent on the material and the exposure.

Line C. *Significant and Substantial:* Per MSHA policy citation for overexposure for a listed nuisance dust cannot be issued as S&S.

**Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m<sup>3</sup> and 0.1 mg/m<sup>3</sup>, operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard §§ 56/57.5005. However, §§ 56/57.5001/56/57.5005 citations for overexposure to nuisance particulates and to silver metal in the above concentration range cannot be evaluated as S&S. Overexposure to soluble compounds of silver, such as silver nitrate, and above 0.01 mg/m<sup>3</sup> can be evaluated as S&S. if appropriate respiratory protection was not worn.

# TOTAL DUST VIOLATION 104(a) NS&S

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<small>Section I--Violation Data</small>				
1. Date Mo Da Yr 10/10/2019	2. Time (24 Hr. Clock) 1200	3. Citation/ Order Number 1230013		
4. Served To John Doe - Mine Manager		5. Operator Poe Dank		
6. Mine Poe Dank #1		7. Mine ID 86-75309 (Contractor)		
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>		
<p>The Dry Plant Operator was exposed to a shift-weighted average of 29.0 mg/m<sup>3</sup> of limestone dust on 10/01/2019. This exceeded the TLV of 10.0 mg/m<sup>3</sup> times the error factor (1.10 for total nuisance particulate). A Respiratory Protection Program meeting the requirements of ANSI Z88.2-1969 was not in place. The original abatement date has been set to allow the operator time to enroll all effected miners in a compliant respiratory protection program. The mine operator must establish engineering controls to reduce the limestone dust exposure to less than the TLV.</p>				
<small>See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/></small>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.5001(a)/56.5005	
<small>Section II--Inspector's Evaluation</small>				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date Mo Da Yr 10/14/2019	B. Time (24 Hr. Clock) 0800			
<small>Section III--Termination Action</small>				
17. Action to Terminate				
18. Terminated				
A. Date Mo Da Yr	B. Time (24 Hr. Clock)			
<small>Section IV--Automated System Data</small>				
19. Type of Inspection (activity code) E01	20. Event Number 5000001	21. Primary or Mill P		
22. Signature			23. AR Number	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>				



**Total Dust Violation 104(a) NS&S Extension**

**Citation 1230013-01 (Respirable Dust S&S Extension)**

**Section II – *Justification for Action***

# TOTAL DUST VIOLATION 104(a) NS&S EXTENSION

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/10/2019	3. Citation/ Order Number 1230013-01
4. Served To John Doe - Mine Manager	5. Operator Poe Dank	
6. Mine Poe Dank #1	7. Mine ID 86-75309 (Contractor)	

Section II--Justification for Action

The mine operator has enrolled effected miners in an ANSI Z88.2 1969 compliant respiratory protection program. The citation is being extended to allow the mine operator time to install engineering controls.

See Continuation Form ☐

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 10/18/2019	B. Time (24 Hr. Clock) 7:01	<input type="checkbox"/> C. Vacated <input type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 5000001
11. Signature	AR Number
12. Date Mo Da Yr 10/12/2019	13. Time (24 Hr. Clock) 10:01

MSHA Form 7000-3a, Mar 85 (revised)

**Total Dust Violation 104(a) NS&S Termination**

**Citation 1230013-02 (Total Dust Citation Termination)**

**Section II – *Justification for Action***

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# TOTAL DUST VIOLATION 104(a) NS&S TERMINATION

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/10/2019	3. Citation/ Order Number 1230013-02
4. Served To John Doe - Mine Manager		5. Operator Poe Dank
6. Mine Poe Dank #1		7. Mine ID 86-75309 (Contractor)

Section II--Justification for Action

The Dry Plant Operator was resampled on 10/18/2019 and the shift-weighted average to limestone dust was determined to be 1.44mg/m<sup>3</sup>. This shift-weighted average is less than the TLV time the error factor of 11.0 mg/m<sup>3</sup>. The operator has installed and implemented engineering and administrative controls upgrading the seals on the Dry Plant Operator control booth, installing ventilation hoods at product transfer points and installed ventilation hoods on screens. The mine operator implemented a job rotation schedule that requires the Dry Plant Operator to exchange jobs with the Primary Crusher Plant Operator half way through their shifts and ensures that no miners will perform the Dry Plant Operator job function for more than 6 hours.

See Continuation Form ☐

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 5000001		
11. Signature	AR Number	12. Date Mo Da Yr 10/24/2019	13. Time (24 Hr. Clock) 07:02

MSHA Form 7000-3a, Mar 85 (revised)

## Respirable Dust Violation 104(a) Citation NS&S


### Citation 1230005 (Respirable Dust Non S&S Citation)

#### Section I – *Violation Data*

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

# RESPIRABLE DUST VIOLATION 104(a) CITATION NS&S

Mine Citation/Order		<b>U. S. Department of Labor</b> Mine Safety and Health Administration		
Section I--Violation Data				
1. Date 10/20/2019		2. Time (24 Hr. Clock) 1200		3. Citation/ Order Number 1230005
4. Served To John Doe - Mine Manager			5. Operator Poe Dank	
6. Mine Poe Dank #1			7. Mine ID 86-75309 (Contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>
<p>The Dry Plant Laborer was exposed to a shift-weighted average of 0.35mg/m3 of respirable silica-bearing dust on 10/01/2019. This exceeded the TLV of 0.27mg/m3 times the error factor (1.20 for respirable free silica dust sampling and analysis). The miner was enrolled in an ANSI Z88.2-1969 compliant respiratory protection program and was wearing and approved respirator. The abatement date has been set to allow the operator time to install engineering controls needed to reduce the exposure to less than the TLV.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.5001(a)/.5005	
Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date 11/20/2019		B. Time (24 Hr. Clock) 1200		
Section III--Termination Action				
17. Action to Terminate				
18. Terminated				
A. Date Mo Da Yr		B. Time (24 Hr. Clock)		
Section IV--Automated System Data				
19. Type of Inspection (activity code) E01		20. Event Number 5000001		21. Primary or Mill P
22. Signature				23. AR Number
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.				


## **Respirable Dust Violation 104(a) Citation NS&S Termination**

### **Citation 1230005-01 (Respirable Dust Non S&S Termination)**

#### **Section II – *Justification for Action***

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# RESPIRABLE DUST VIOLATION 104(a) CITATION NS&S TERMINATION

Mine Citation/Order Continuation		U.S. Department of Labor Mine Safety and Health Administration		
Section I--Subsequent Action/Continuation Data				
1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 10/01/2019	3. Citation/ Order Number 1230005-01	
4. Served To John Doe - Mine Manager			5. Operator Poe Dank	
6. Mine Poe Dank #1			7. Mine ID 86-75309 (Contractor)	
Section II--Justification for Action				
<p>The Dry Plant Laborer was exposed to a shift-weighted average of 0.40 mg/m3 of respirable silica-bearing dust during a resample conducted on 10/09/2020. This shift-weighted average is less than the Threshold Limit Value (TLV) of 0.59 mg/m3. The operator has implemented and/or installed. The mine operator has upgraded the seals on the Dry Plant Operator control booth, installed ventilation hoods on product transfer points and installed ventilation hoods on screens. The mine operator has implemented job rotation schedule that requires the Dry Plant Operator to exchange jobs with the Wet Plant Operator half way through their shifts. The job rotation schedule ensures that no miners will perform the Dry Plant Operator job function for more than 6 hours. The Dry Plant Laborer's exposure to respirable silica-bearing dust has been reduced below the TLV, terminating this citation.</p>				
See Continuation Form <input type="checkbox"/>				
Section III--Subsequent Action Taken				
8. Extended To		A. Date Mo Da Yr		B. Time (24 Hr. Clock)
				<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
Section IV--Inspection Data				
9. Type of Inspection E01		10. Event Number 5000001		
11. Signature		AR Number	12. Date Mo Da Yr 10/14/2019	13. Time (24 Hr. Clock) 10:30

MSHA Form 7000-3a, Mar 85 (revised)



## Respirable Dust Violation 104(a) Citation S&S


### Citation 1230001 (Respirable Dust S&S Citation)

#### Section I – *Violation Data*

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

# RESPIRABLE DUST VIOLATION 104(a) CITATION S&S

Mine Citation/Order		U. S. Department of Labor Mine Safety and Health Administration		
Section I--Violation Data				
1. Date	Mo Da Yr 10/10/2019	2. Time (24 Hr. Clock) 1200		3. Citation/ Order Number 1230001
4. Served To John Doe - Mine Manager			5. Operator Poe Dank	
6. Mine Poe Dank #1			7. Mine ID 86-75309 (Contractor)	
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>	
<p>The Dry Plant Operator was exposed to a shift-weighted average of 0.29mg/m3 of respirable silica-bearing dust on 10/01/2019 when working in the screener area. This exceeded the TLV of 0.25mg/m3 times the error factor (1.20 for respirable free silica dust sampling and analysis). A Respiratory Protection Program meeting the requirements of ANSI Z88.2-1969 was not in place. The abatement date has been set to allow the operator time to enroll all effected miners in a compliant respiratory protection program. The mine operator must establish engineering controls to reduce the silica-bearing dust exposure to less than the TLV.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.5001(a)/56.5005	
Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date	Mo Da Yr 11/10/2019	B. Time (24 Hr. Clock)	1200	
Section III--Termination Action				
17. Action to Terminate				
18. Terminated				
A. Date	Mo Da Yr	B. Time (24 Hr. Clock)		
Section IV--Automated System Data				
19. Type of Inspection (activity code) E01		20. Event Number 5000001		21. Primary or Mill P
22. Signature				23. AR Number
<p>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</p>				

**Respirable Dust Violation 104(a) Citation S&S Extension**

**Citation 1230001-01 (Respirable Dust S&S Extension)**

**Section II – *Justification for Action***

# RESPIRABLE DUST VIOLATION 104(a) CITATION S&S EXTENSION

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/10/2019	3. Citation/ Order Number 1230001-01
4. Served To John Doe - Mine Manager	5. Operator Poe Dank	
6. Mine Poe Dank #1	7. Mine ID 86-75309 (Contractor)	

Section II--Justification for Action

The mine operator has enrolled affected miners in an ANSI Z88.2 1969 compliant respiratory protection program. The citation is being extended to allow the mine operator time to install engineering controls.

See Continuation Form ☐

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 10/18/2019	B. Time (24 Hr. Clock) 7:01	<input type="checkbox"/> C. Vacated <input type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 5000001
11. Signature	AR Number
12. Date Mo Da Yr 10/12/2019	13. Time (24 Hr. Clock) 10:01

MSHA Form 7000-3a, Mar 85 (revised)


## **Respirable Dust Violation 104(a) Citation S&S Termination**

### **Citation 1230001-02 (Respirable Dust S&S Termination)**

#### **Section II – *Justification for Action***

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# RESPIRABLE DUST VIOLATION 104(a) CITATION S&S TERMINATION


Mine Citation/Order Continuation		U.S. Department of Labor Mine Safety and Health Administration		
Section I--Subsequent Action/Continuation Data				
1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue)	Mo	Da	Yr
				10/10/2019
		3. Citation/ Order Number 1230001-02		
4. Served To John Doe - Mine Manager		5. Operator Poe Dank		
6. Mine Poe Dank #1		7. Mine ID 86-75309 (Contractor)		
Section II--Justification for Action				
<p>The Dry Plant Operator was resampled on 10/18/2019 and the shift-weighted average to respirable silica-bearing dust was determined to be 0.44mg/m<sup>3</sup>. This shift-weighted average is less than the Threshold Limit Value (TLV) of 0.59 mg/m<sup>3</sup>. The operator has installed and/or implemented the following engineering and administrative controls. The mine operator has upgraded the seals on the Dry Plant Operator control booth, installed ventilation hoods on product transfer points and installed ventilation hoods on screens. The mine operator has implemented job rotation schedule that requires the Dry Plant Operator to exchange jobs with the Wet Plant Operator half way through their shifts. The job rotation schedule ensures that no miners will perform the Dry Plant Operator job function for more than 6 hours. The Dry Plant Operator exposure to respirable silica-bearing dust has been reduced below the TLV. This citation is terminated.</p>				
See Continuation Form <input type="checkbox"/>				
Section III--Subsequent Action Taken				
8. Extended To	A. Date	Mo	Da	Yr
		B. Time (24 Hr. Clock)		<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
Section IV--Inspection Data				
9. Type of Inspection E01		10. Event Number 5000001		
11. Signature		AR Number	12. Date	13. Time (24 Hr. Clock)
			10/24/2019	07:02
MSHA Form 7000-3a, Mar 85 (revised)				

## **Respirable Dust Violation 104(b) Order Failure to Abate**

### **Citation 1230002 (Respirable Dust 104b Order)**

Consult the District prior to issuance of a 104(b) Order for not installing engineering and/or implementing administrative controls.

# RESPIRABLE DUST VIOLATION 104(b) ORDER FAILURE TO ABATE

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
Section I--Violation Data				
1. Date      Mo Da Yr 10/18/2019		2. Time (24 Hr. Clock) 0800		3. Citation/ Order Number 1230002
4. Served To John Doe - Mine Manager			5. Operator Poe Dank	
6. Mine Poe Dank #1			7. Mine ID 86-75309 (Contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>
<p>There is no justification to further extend this citation. The mine operator has made no attempt to install engineering controls in the screen area that would reduce the Dry Plant Operator exposure to respirable silica-bearing dust. Miners performing the Dry Plant Operator occupation are removed from the area and miners are not allowed to perform the duties of the Dry Plant Operator. When the mine operator can demonstrate that efforts to reduce the Dry Plant Operator exposure to respirable silica-bearing dust are being taken this order may be modified to allow the Dry Plant Operator occupation to resume.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR      56.5001(a)/56.5005	
Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or illness (has) (is):    No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be:    No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial:    Yes <input type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected:
11. Negligence (check one)    A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(b)		13. Type of Issuance (check one)    Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input checked="" type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number 1230001		F. Dated      Mo Da Yr 10/01/2019
15. Area or Equipment Dry Plant Screen Area				
16. Termination Due				
A. Date      Mo Da Yr		B. Time (24 Hr. Clock)		
Section III--Termination Action				
17. Action to Terminate				
18. Terminated				
A. Date      Mo Da Yr		B. Time (24 Hr. Clock)		
Section IV--Automated System Data				
19. Type of Inspection (activity code)    E01		20. Event Number 5000001		21. Primary or Mill P
22. Signature				23. AR Number
<p>MSHA Form 7000-3, Apr 08 (revised)    In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW    MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</p>				




**Respirable Dust Violation 104(a) Citation  
Working In Face Of 104(b) Order**

**Citation 1230004 (Respirable Dust 104(a) working in the face of the 104b Order)**

Consult the District prior to issuance of a 104(b) Order for not installing engineering and/or implementing administrative controls.

# RESPIRABLE DUST VIOLATION 104(a) CITATION - WORKING IN FACE OF 104(b) ORDER

Mine Citation/Order		<b>U.S. Department of Labor</b> Mine Safety and Health Administration		
Section I--Violation Data				
1. Date 10/20/2019	2. Time (24 Hr. Clock) 1200	3. Citation/ Order Number 1230004		
4. Served To John Doe - Mine Manager		5. Operator Poe Dank		
6. Mine Poe Dank #1		7. Mine ID 86-75309 (Contractor)		
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>
<p>The mine operator was issued a 104b order, number 1230002 to remove miners conducting Dry Plant Operator duties from the screen area on 10/18/2019. Miners were observed conducting Dry Plant Operator job functions on 10/20/2019. The mine operator has not complied with the Order of Withdraw.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act 104(b)	C. Part/Section of Title 30 CFR	
Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input checked="" type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 004
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date 10/20/2019		B. Time (24 Hr. Clock) 1210		
Section III--Termination Action				
17. Action to Terminate				
18. Terminated				
A. Date Mo Da Yr		B. Time (24 Hr. Clock)		
Section IV--Automated System Data				
19. Type of Inspection (activity code) E01		20. Event Number 5000001		21. Primary or Mill P
22. Signature				23. AR Number
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.				

## Radon 104(a) S&S Citation

### Citation 1230010 (Radon Citation)

#### Section I – *Violation Data*

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Box 8. ☐ *Condition or Practice* – List if the miner sampled is wearing appropriate respiratory protection and if the miner is enrolled in complaint Respiratory Protection Program


#### Section II – *Inspector's Evaluation*

Box 10. ☐ - *Gravity* –

Line A. *Injury or Illness (has)(is)*: Unlikely vs Reasonable Likely is dependent on whether the miner is wearing appropriate respiratory protection.

Line B. *Injury or illness could reasonably be expected to be*: Radon is a known cause of lung cancer. Lung cancer can lead to permanent disability and is often fatal.

# RADON 104(a) S&S CITATION

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<b>Section I--Violation Data</b>				
1. Date Mo Da Yr 05/01/2020	2. Time (24 Hr. Clock) 1500	3. Citation/ Order Number 1230010		
4. Served To John Doe - Mine Manager		5. Operator Poe Dank		
6. Mine Poe Dank #1 Underground		7. Mine ID 86-75310 (Contractor)		
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>
<p>The #33 shuttle car operator in the #5 section was exposed to air containing 2.1 WL of radon daughters on 5/1/2020. This exceeded the maximum permissible exposure limit of 1.00 WL times the error factor (1.20) for radon daughter sampling. Several sections of ventilation tubing was damaged and the #8 booster fan was not on. The miner was not wearing a respirator. The mine operator must ensure that all miners working in the #5 Section wear respiratory protection and are enrolled in a respiratory protection program in compliance with ANSI Z88.2-1969.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 57.5039	
<b>Section II--Inspector's Evaluation</b>				
10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input checked="" type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date Mo Da Yr 05/05/2020		B. Time (24 Hr. Clock) 1200		
<b>Section III--Termination Action</b>				
17. Action to Terminate				
18. Terminated				
A. Date MoDa Yr		B. Time (24 Hr. Clock)		
<b>Section IV--Automated System Data</b>				
19. Type of Inspection (activity code) E01	20. Event Number 5000001	21. Primary or Mill P	23. AR Number	
22. Signature				
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>				


## Radon 104(a) S&S Citation Termination

### Citation 1230010-01 (Radon Termination)

#### **Section II** – *Justification for Action*

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

## RADON 104(a) S&S CITATION TERMINATION

Mine Citation/Order Continuation		U.S. Department of Labor Mine Safety and Health Administration		
Section I--Subsequent Action/Continuation Data				
1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 05/01/2020	3. Citation/ Order Number 1230010-01	
4. Served To John Doe - Mine Manager			5. Operator Poe Dank	
6. Mine Poe Dank #1 Underground			7. Mine ID 86-75310 (Contractor)	
Section II--Justification for Action				
<p>The fan was turned on and the ventilation tubing repaired bringing the concentration of radon daughters under the permissible exposure limit. The shuttle car operator was exposed to air containing 0.10WL of radon daughters when resampled on May 15, 2020. During resampling the miner was wearing a fit-tested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.</p>				
See Continuation Form <input type="checkbox"/>				
Section III--Subsequent Action Taken				
8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified	
Section IV--Inspection Data				
9. Type of Inspection E01		10. Event Number 5000001		
11. Signature		AR Number	12. Date Mo Da Yr 05/15/2020	13. Time (24 Hr. Clock) 1800

MSHA Form 7000-3a, Mar 85 (revised)

## Drill Dust 104(a) Citation NS&S

### Citation 1230011 (Drill Dust Control Citation)

#### Section I – Violation Data

Box 8. ☐ - Condition or Practice –

**Note:** Non-compliance with this standard is determined by whether drill dust controls are effective based on the observation of the inspector.

Describe dust condition that led to the determination that drill dust controls were not effective. Describe the material being drilled (soluble or non-water soluble). Describe why current dust controls are not effective. List if the miner sampled is wearing appropriate respiratory protection and if the miner is enrolled in complaint Respiratory Protection Program.

#### Section II – Inspector's Evaluation

Box 10. ☐ Gravity –

Line A. *Injury or Illness (has)(is):* Unlikely vs Reasonable Likely will be dependent on the possibility that the material being drilled contains respirable crystalline **silica bearing** dust. Check sampling history for the mine and geology of the material being drilled. Line A will be “Unlikely” if the driller is wearing appropriate respiratory protection.

Line B. *Injury or illness could reasonably be expected to be:* if respirable crystalline silica bearing dust is present then silicosis is a possibility. Silicosis is a permanent disability and is often fatal.

### Citation 1230011-01 (Drill Dust Controls Termination)

#### Section II – Justification for Action

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# DRILL DUST 104(a) CITATION NS&S

Mine Citation/Order		<b>U.S. Department of Labor</b> Mine Safety and Health Administration		
Section I--Violation Data				
1. Date	Mo Da Yr 05/14/2020	2. Time (24 Hr. Clock) 1500		3. Citation/ Order Number 1230011
4. Served To		5. Operator		
John Doe - Mine Manager		Poe Dank		
6. Mine		7. Mine ID		
Poe Dank #1		86-75309 (Contractor)		
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>
On 5/14/2020 the drilling operation taking place in the #2 north pit was observed creating excessive dust. The dust exhaust system on the Furukawa 1017 drill was not effective and the drill mist system was not being used. Several pieces of the dust collector collar apron were missing and the drilling mist system was out of water. The drill operator was not wearing a respirator. This condition exposed the driller and drill helper to excessive dust.				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR	
			58.620	
Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial:				D. Number of Persons Affected:
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				002
11. Negligence (check one)				
A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one)		
		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action		E. Citation/ Order Number		F. Dated
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date	Mo Da Yr 05/15/2020	B. Time (24 Hr. Clock)	08:00	
Section III--Termination Action				
17. Action to Terminate				
The dust exhaust system on the Furukawa 1017 drill was repaired, water was added to the tank and the drill mist system was turned on. Dust controls on the drill are now effective.				
18. Terminated				
A. Date	Mo Da Yr 05/15/2020	B. Time (24 Hr. Clock)	0807	
Section IV--Automated System Data				
19. Type of Inspection (activity code)		20. Event Number	21. Primary or Mill	
E01		5000001	P	
22. Signature			23. AR Number	
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.				



## Diesel Particulate Matter 104(a) Citation NS&S (DPM)

### Citation 1230021 (DPM non S&S Citation)

#### Section I – *Violation Data*

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8. ☐ *Condition or Practice* –

List if the miner sampled is wearing appropriate respiratory protection and if the miner is enrolled in complaint Respiratory Protection Program

#### Section II – *Inspector's Evaluation*

Box 10. ☐ *Gravity* –

Line A. *Injury or Illness (has)(is)*: Unlikely - the miner was wearing appropriate respiratory protection.

Line B. *Injury or illness could reasonably be expected to be*: DPM is a known cause of lung cancer. Lung cancer can lead to permanent disability and is often fatal.



## Section I--Violation Data

1. Date Mo Da Yr 05/14/2020	2. Time (24 Hr. Clock) 1500	3. Citation/ Order Number 1230021
4. Served To John Doe - Mine Manager	5. Operator Poe Dank	
6. Mine Poe Dank #1	7. Mine ID 86-75309 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

On 5/01/2020 the scaler operator was exposed to an equivalent 8 hour-SWA of Total Carbon (as Elemental Carbon) of 293 ug/M3. This exposure exceeded the Diesel Particulate Matter TC PEL of 160 ug/M3 times the sampling and analytical error factor or 176 ug/M3. The miner was wearing an approved fit-tested respirator and a respiratory protection program meeting the requirements of 30 CFR 57.5060(d) was in place. All controls were not being used to reduce the miner's exposure.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 57.5060b3
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## Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 05/25/2020	B. Time (24 Hr. Clock) 1520
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## Section III--Termination Action

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

## Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 5000001	21. Primary or Mill P
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

## **Diesel Particulate Matter 104(a) Citation NS&S (DPM) Termination**

### **Citation 1230020-01 (DPM non S&S Citation Termination)**

#### **Section II – *Justification for Action***

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# DIESEL PARTICULATE MATTER 104(a) CITATION NS&S (DPM) TERMINATION

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/14/2020	3. Citation/ Order Number 1230020-01
4. Served To John Doe - Mine Manager	5. Operator Poe Dank	
6. Mine Poe Dank #1	7. Mine ID 86-75309 (Contractor)	

Section II--Justification for Action

The mine operator has upgraded the underground ventilation and has started using 80/20 biodiesel. The scaler operator's exposure level is now below the Diesel Particulate Matter TC PEL. This citation is terminated.

See Continuation Form ☐

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 5000001		
11. Signature	AR Number	12. Date Mo Da Yr 05/19/2020	13. Time (24 Hr. Clock) 0800

MSHA Form 7000-3a, Mar 85 (revised)

## Diesel Particulate Matter 104(a) Citation S&S (DPM)

### Citation 1230020 (DPM S&S Citation)

#### Section I – *Violation Data*

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8. ☐ *Condition or Practice* –

List if the miner sampled is wearing appropriate respiratory protection and if the miner is enrolled in complaint Respiratory Protection Program.

#### Section II – *Inspector's Evaluation*

Box 10. ☐ *Gravity* –

Line A. *Injury or Illness (has)(is):* Reasonable Likely - the miner was not wearing appropriate respiratory protection.

Line B. *Injury or illness could reasonably be expected to be:* DPM is a known cause of lung cancer. Lung cancer can lead to permanent disability and is often fatal.



## Section I--Violation Data

1. Date Mo Da Yr 05/14/2020	2. Time (24 Hr. Clock) 1500	3. Citation/ Order Number 1230021
4. Served To John Doe - Mine Manager	5. Operator Poe Dank	
6. Mine Poe Dank #1	7. Mine ID 86-75309 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

On 05/01/2020 the operator of front end-loader H3456 was exposed to an equivalent 8 hour-SWA of adjusted Total Carbon of 239 ug/M3. This validated exposure exceeded the Diesel Particulate Matter TC PEL of 160 ug/M3 times the sampling and analytical error factor for one area sample or 202 ug/M3. Respiratory protection was not being used and a respiratory protection program meeting the requirements of 30 CFR 57.5060(d) was not in place. All feasible controls were not in use to control the employee's diesel particulate exposure. When a respiratory protection program is in place the abatement date will be extended to allow the mine operator to install controls.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 57.5060b3
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## Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 05/25/2020	B. Time (24 Hr. Clock) 1520
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## Section III--Termination Action

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

## Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 5000001	21. Primary or Mill P
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

**Diesel Particulate Matter 104(a) Citation S&S (DPM) Extension**

**Citation 1230020-01 (Respirable Dust S&S Extension)**

**Section II – *Justification for Action***

# DIESEL PARTICULATE MATTER 104(a) CITATION S&S (DPM) EXTENSION

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/14/2020	3. Citation/ Order Number 1230020-01
4. Served To John Doe - Mine Manager	5. Operator Poe Dank	
6. Mine Poe Dank #1	7. Mine ID 86-75309 (Contractor)	

Section II--Justification for Action

The mine operator has enrolled effected miners in a respiratory protectoin program that is compliant with 30 CFR 57.5060(d). The citation is being extended to allow the mine operator time to install controls that will reduce the exposure levels below the Diesel Particulate Matter TC PEL.

See Continuation Form ☐

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 06/20/2020	B. Time (24 Hr. Clock) 7:01	<input type="checkbox"/> C. Vacated <input type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 5000001
11. Signature	AR Number
12. Date Mo Da Yr 05/20/2020	13. Time (24 Hr. Clock) 10:01

MSHA Form 7000-3a, Mar 85 (revised)



## **Diesel Particulate Matter 104(a) Citation S&S (DPM) Termination**

### **Citation 1230020-02 (DPM Citation Termination)**

#### **Section II – *Justification for Action***

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# DIESEL PARTICULATE MATTER 104(a) CITATION S&S (DPM) TERMINATION

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/14/2020	3. Citation/ Order Number 1230020-02
4. Served To John Doe - Mine Manager	5. Operator Poe Dank	
6. Mine Poe Dank #1	7. Mine ID 86-75309 (Contractor)	

Section II--Justification for Action

The mine operator has upgraded the underground ventilation and has started using 80/20 biodiesel. The front-end-loader operator's exposure level is now below the Diesel Particulate Matter TC PEL. This citation is terminated.

See Continuation Form ☐

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 5000001		
11. Signature	AR Number	12. Date Mo Da Yr 06/19/2020	13. Time (24 Hr. Clock) 0800

MSHA Form 7000-3a, Mar 85 (revised)

## Dust, Gas, Mist and Fume Surveys Underground 104(a) S&S Citation

### Citation 1230016 (.5002 Citation)

Box 8. ☐ *Condition or Practice –*

Describe the area and/or miner sampled and the sample method. List the sample concentration, the sample method error factor and the TLV for the contaminant. List, if applicable, if the miner(s) was wearing appropriate respiratory protection and if the miner(s) was enrolled in a compliant respiratory protection program.

### Section II – *Inspector's Evaluation*

Box 10. ☐ *Gravity –*

Line A. *Injury or Illness (has)(is):* Unlikely vs Reasonable Likely is dependent on miners potential exposure (length and/or concentration) to the contaminant.

Line B. *Injury or illness could reasonably be expected to be:* Degree of injury is dependent on the potential health effect of the contaminant at the level of exposure found.

# DUST, GAS, MIST AND FUME SURVEYS UNDERGROUND 104(a) S&S CITATION

Mine Citation/Order		<b>U.S. Department of Labor</b> Mine Safety and Health Administration		
Section I--Violation Data				
1. Date	Mo Da Yr 05/14/2020	2. Time (24 Hr. Clock) 1501		3. Citation/ Order Number 1230016
4. Served To	John Doe - Mine Manager		5. Operator Poe Dank	
6. Mine	Poe Dank #1		7. Mine ID 86-75309 (Contractor)	
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>	
The mine operator was not conducting dust, gas, mist and fume surveys underground to ensure the provided ventilation controls were adequate to prevent exposure to mine gases. Elevated contaminant levels were measured in the South 10 drift with a MX6 multi-gas detector at the time of inspection.				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 57.5002	
Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action		E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				
15. Area or Equipment				
16. Termination Due				
A. Date	Mo Da Yr 05/15/2020	B. Time (24 Hr. Clock)	0800	
Section III--Termination Action				
17. Action to Terminate The mine operator is now sampling for mine gases to ensure that controls used to minimize miner exposure to these gases are adequate.				
18. Terminated				
A. Date	Mo Da Yr 05/14/2020	B. Time (24 Hr. Clock)	1600	
Section IV--Automated System Data				
19. Type of Inspection (activity code) E01		20. Event Number 5000001		21. Primary or Mill P
22. Signature				23. AR Number
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.				

## Hazardous Gas 104(a) Citation S&S

### Citation 1230015 (CO Mine Gas Citation)

#### Section I – Violation Data

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8. ☐ *Condition or Practice* –

Describe the area and/or miner sampled and the sample method. List the sample concentration, the sample method error factor and the TLV for the contaminant. List, if applicable, if the miner(s) was wearing appropriate respiratory protection and if the miner(s) was enrolled in a compliant respiratory protection program.


#### Section II – Inspector's Evaluation

Box 10. ☐ *Gravity* –

Line A. *Injury or Illness (has)(is)*: Unlikely vs Reasonable Likely is dependent on the miner's exposure (length and/or concentration) to the contaminant.

Line B. *Injury or illness could reasonably be expected to be*: Degree of injury is dependent on the potential health effect of the contaminant at the level of exposure found.

## HAZARDOUS GAS 104(a) CITATION S&amp;S

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
Section I--Violation Data				
1. Date	Mo Da Yr 05/14/2020	2. Time (24 Hr. Clock) 1500		3. Citation/ Order Number 1230015
4. Served To John Doe - Mine Manager			5. Operator Poe Dank	
6. Mine Poe Dank #1			7. Mine ID 86-75309 (Contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>
<p>The carbon monoxide level in drift South 10 was 450ppm for a duration of 15 minutes when sampled with an MSA Altair Multi-gas Monitor. This exposes the loader operator in this drift to CO levels over the permissible excursion limit of 400 ppm for a 15 minute sample period. The provided ventilation in this area was off at the time the sample was taken.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 57.5001(a)/5005	
Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date Mo Da Yr 05/14/2020		B. Time (24 Hr. Clock) 1520		
Section III--Termination Action				
17. Action to Terminate The mine operator improved the entry ventilation and reduced the CO level below the TLV, along with retraining for ventilation controls with all miners.				
18. Terminated				
A. Date Mo Da Yr 05/14/2020		B. Time (24 Hr. Clock) 1515		
Section IV--Automated System Data				
19. Type of Inspection (activity code) E01		20. Event Number 5000001		21. Primary or Mill P
22. Signature				23. AR Number
<p>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</p>				

## Hydrogen Chloride Levels 104(a) S&S Citation

### Citation 1000004 (Hydrogen Chloride)

#### Section I – Violation Data

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8. ☐ *Condition or Practice* –

Describe the area and/or miner sampled and the sample method. List the sample concentration, the sample method error factor and the TLV for the contaminant. List, if applicable, if the miner(s) was wearing appropriate respiratory protection and if the miner(s) was enrolled in a compliant respiratory protection program.


#### Section II – Inspector's Evaluation

Box 10. ☐ *Gravity* –

Line A. *Injury or Illness (has)(is)*: Unlikely vs Reasonable Likely is dependent on the miner's exposure (length and/or concentration) to the contaminant.


Line B. *Injury or illness could reasonably be expected to be*: Degree of injury is dependent on the potential health effect of the contaminant at the level of exposure found

# HYDROGEN CHLORIDE LEVELS 104(a) S&S CITATION

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<b>Section I--Violation Data</b>				
1. Date	Mo Da Yr 5/18/2020	2. Time (24 Hr. Clock) 0828	3. Citation/ Order Number	1000004
4. Served To	Joe Howell - Owner		5. Operator	10-4 INC
6. Mine	Mine #4		7. Mine ID	41-00112 (Contractor)
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>	
<p>A laboratory technician was handling hot acid in the assay laboratory where the measured hydrogen chloride levels were 35 ppm (parts per million), which is almost at the immediately dangerous to life and health (IDLH) level of 50 ppm. A sample was taken in the operator's work area for an hour with a Drager diffusion tube. The measured exposures are approaching fatal levels. The ceiling limit for hydrogen chloride is 5 ppm. The technician was removed from the lab when levels exceeded the ceiling limit of 5 ppm, and an oral imminent danger order was issued to Becky Mills, laboratory supervisor, at 0828 hours this date. The technician was not wearing respiratory protection and complained of eye and throat irritation.</p> <p>This violation is a factor cited in imminent danger order No. 1000005</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR	57.5001(a) / .5005
<b>Section II--Inspector's Evaluation</b>				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input checked="" type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action		13. Type of Issuance (check one)		
104 (a)		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action		E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				
15. Area or Equipment				
16. Termination Due				
A. Date Mo Da Yr		B. Time (24 Hr. Clock)		
<b>Section III--Termination Action</b>				
17. Action to Terminate				
18. Terminated				
A. Date Mo Da Yr		B. Time (24 Hr. Clock)		
<b>Section IV--Automated System Data</b>				
19. Type of Inspection (activity code)	E01	20. Event Number	1000001	21. Primary or Mill P
22. AR Name				23. AR Number
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>				



# HIGH WALL DRILL DUST COLLECTION 104(a) CITATION

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<b>Section I--Violation Data</b>				
1. Date	Mo Da Yr 5/6/2020	2. Time (24 Hr. Clock) 1020	3. Citation/ Order Number	8533283
4. Served To	Shane Cornish, Mine Manager		5. Operator	Cornish Mining Company, LLC.
6. Mine	Cornwall Mine		7. Mine ID	05-01234 (Contractor)
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>	
<p>The dust collection system provided on the Ingersoll Rand highwall drill (S/N IR-124356) was not effective in controlling the dust produced during the drilling process. Visible dust was observed being emitted from beneath the drill table and a visible dust cloud was observed passing over the blaster, hole loader nearby, and blast foreman. An examination of the collection system revealed that the skirting material provided on the drill table was torn in several places and the bushing material between the drill steel and drill table needed replacement. This highwall drill was observed drilling holes along the #6 highwall bench. The Note: The highwall drill is, typically, only in operation on the day shift.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR	
			72.620	
<b>Section II--Inspector's Evaluation</b>				
10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 003
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action		13. Type of Issuance (check one)		
104 (a)		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action		E. Citation/ Order Number		F. Dated
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date	Mo Da Yr 5/6/2020	B. Time (24 Hr. Clock)	1225	
<b>Section III--Termination Action</b>				
17. Action to Terminate				
The drill was removed from service and the skirting material replaced. The drill steel bushing was also replaced				
18. Terminated				
A. Date	Mo Da Yr 5/6/2020	B. Time (24 Hr. Clock)	1200	
<b>Section IV--Automated System Data</b>				
19. Type of Inspection (activity code)		20. Event Number	21. Primary or Mill	
E01		4262847		
22. AR Name			23. AR Number	
<p>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</p>				


**104(a) Citation 30 CFR 71.100(b) for DWP**

**Citation 8533284**

**Section 1** – *condition or practice*

**Note:** Use the lab analysis sheet for information within the citation.

## 104(a) CITATION 30 CFR 71.100(b) FOR DWP

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration			
<b>Section I--Violation Data</b>					
1. Date Mo Da Yr 5/6/2020		2. Time (24 Hr. Clock) 1032		3. Citation/ Order Number 8533284	
4. Served To Shane Cornish, Mine Manager			5. Operator Cornish Mining Company, LLC.		
6. Mine Cornwall Mine			7. Mine ID 05-01234 (Contractor)		
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	
<p>The results of five valid samples collected by MSHA Inspector(s) from April 20, 2020 through April 21, 2020, indicate that the #3 Ingersoll Rand Highwall Drill operator (Designated Work Position 002-0-384) is exposed to an average respirable dust concentration of 2.7 mg/m3 which exceeds the allowable exposure of 1.5 mg/m3. These samples were collected on the #3 Ingersoll Rand Highwall Drill (S/N 04-12345) which is normally operated on both the day and afternoon shifts. The mine operator must take immediate action to lower the exposure in the environment of the #3 Ingersoll Rand Highwall Drill operator to 1.5 mg/m3 or less and then sample each production shift until five valid sample have been collected and submitted to the Pittsburgh Dust Processing Laboratory. A copy of the sample results is attached to this citation.</p>					
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>					
9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 71.100 (b)		
<b>Section II--Inspector's Evaluation</b>					
10. Gravity:					
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>					
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>					
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 002	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>					
12. Type of Action 104 (a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr	
15. Area or Equipment					
16. Termination Due					
A. Date Mo Da Yr 5/16/2020		B. Time (24 Hr. Clock) 1032			
<b>Section III--Termination Action</b>					
17. Action to Terminate					
18. Terminated					
A. Date Mo Da Yr		B. Time (24 Hr. Clock)			
<b>Section IV--Automated System Data</b>					
19. Type of Inspection (activity code) E01		20. Event Number 4262847		21. Primary or Mill	
22. AR Name				23. AR Number	
<p>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</p>					

**104(a) Citation 30 CFR 70.100(a)(2) for DO & NDO**

**Citation 1000007**

**Section 1** – *condition or practice*

**Note:** Use the lab analysis sheet for information within the citation.

# 104(a) CITATION 30 CFR 70.100(a)(2) FOR DO & NDO

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
<b>Section I--Violation Data</b>			
1. Date Mo Da Yr 3/4/2020	2. Time (24 Hr. Clock) 0900	3. Citation/ Order Number 1000007	
4. Served To MARK BLACKBURN, FOREMAN		5. Operator MOUNTAIN MOMMA COAL MINE	
6. Mine MOUNTAIN MOMMA MINE		7. Mine ID 012345 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	
<p>Based on the results of valid respirable dust sample (Cassette # 58382203) collected by an Authorized Representative of the Secretary of Labor on February 24th, 2020, the concentration of respirable dust in the working environment of the continuous miner operator (036), on the 001-0 MMU was 1.941 mg/m3 which exceeds the 1.79 mg/m3 ECV, there by exceeding the 1.5 mg/m3 standard.</p> <p>Under the authority of 30 CFR, 70.201(f) the District Manager requests that the mine operator submit, at least 48 hours prior to the scheduled compliance sampling, the date and time the sampling will begin.</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 70.100 (a) (2)
<b>Section II--Inspector's Evaluation</b>			
10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input checked="" type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104 (a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment			
16. Termination Due			
A. Date Mo Da Yr 3/25/2020	B. Time (24 Hr. Clock) 1600		
<b>Section III--Termination Action</b>			
17. Action to Terminate			
18. Terminated			
A. Date Mo Da Yr	B. Time (24 Hr. Clock)		
<b>Section IV--Automated System Data</b>			
19. Type of Inspection (activity code) E01	20. Event Number 9846253	21. Primary or Mill	
22. AR Name JOHN DOE		23. AR Number 01234	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>			

**104(a) Citation 30 CFR 70.100(a)(2) for DO & NDO Termination**

**Citation 1000006-01**

**Section 1** – *condition or practice*

**Note:** Use the lab analysis sheet for information within the citation.

# 104(a) CITATION 30 CFR 70.100(a)(2) FOR DO & NDO TERMINATION

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/04/2020	3. Citation/ Order Number 1000006-01
4. Served To MARK BLACKBURN, FOREMAN	5. Operator MOUNTAIN MOMMA COAL	
6. Mine MOUNTAIN MOMMA MINE	7. Mine ID (Contractor) 01-2345	

Section II--Justification for Action

The operator has submitted 5 valid respirable dust samples in the working environment of the continuous mining machine operator and has an approved ventilation plan revision with corrective actions for the 001-0 MMU.

Section III--Subsequent Action Taken

8. Extended To A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 9846253		
11. AR Name JOHN DOE	AR Number 01234	12. Date Mo Da Yr 03/26/2020	13. Time (24 Hr. Clock) 07:26

MSHA Form 7000-3a, Mar 85 (revised)

**104(a) Citation 30 CFR 90.100(b) for Part 90 Miner**


**Citation 1000001**

**Section 1** – *condition or practice*

**Note:** Use the lab analysis sheet for information within the citation.



# 104(a) CITATION 30 CFR 90.100(b) FOR PART 90 MINER

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<b>Section I--Violation Data</b>				
1. Date	Mo Da Yr 4/15/2020	2. Time (24 Hr. Clock)	0700	
3. Citation/ Order Number		1000001		
4. Served To		Jerry Jones, Owner		
5. Operator		Megabucks Mining Co.		
6. Mine		NO. 1		
7. Mine ID		15-12345 (Contractor)		
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>		
<p>Based on the results of a valid single, full-shift CMDPSU respirable dust sample collected by MSHA on April 10, 2020, the concentration of respirable dust in the working environment of the Part 90 Miner, Occupation Code 101 working on the No. 1 Belt was 1.5 mg/m3. This sample exceeds the 0.74 mg/m3 ECV thereby exceeding the 0.5 mg/m3 applicable standard. The operator shall make available approved respiratory equipment to the affected miner, take immediate corrective action to lower the concentration of respirable dust to within the permissible limit of 0.5 mg/m3 and sample the Part 90 Miner, Occupation Code 101 each consecutive production shift until 5 valid samples are taken. The first of the 5 samples must be collected within 8 calendar days after the citation issue date.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 90.100 (b)	
<b>Section II--Inspector's Evaluation</b>				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action		13. Type of Issuance (check one)		
104 (a)		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action		E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				
15. Area or Equipment				
16. Termination Due				
A. Date	Mo Da Yr 4/30/2020	B. Time (24 Hr. Clock)	0700	
<b>Section III--Termination Action</b>				
17. Action to Terminate				
18. Terminated				
A. Date	Mo Da Yr	B. Time (24 Hr. Clock)		
<b>Section IV--Automated System Data</b>				
19. Type of Inspection (activity code)		20. Event Number		21. Primary or Mill
E01		7777777		
22. AR Name				23. AR Number
Jimmy Johnson				51050
<p><small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small></p>				

## **MNM and Coal Mine Noise**

When citing Metal Non-Metal or Coal mines the use of 30 CFR Part 62 OCCUPATIONAL NOISE EXPOSURE Subpart M is used by both MNM and COAL

### **Noise AL 104(a) Citation NS&S**

#### **Citation 1230006 (Noise AL Citation)**

##### **Section I – Violation Data**

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.


##### **Section II – Inspector's Evaluation**

Line A. *Injury or Illness (has)(is)*: Unlikely.

Line B. *Injury or illness could reasonably be expected to be*: Noise induced hearing loss is always Permanently Disabling.

Line C. *Significant and Substantial*: 62.120 citation cannot be issued as S&S.

# NOISE AL 104(a) CITATION NS&S

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration		
<b>Section I--Violation Data</b>				
1. Date	Mo Da Yr 5/14/2020	2. Time (24 Hr. Clock) 1204	3. Citation/ Order Number	1000006
4. Served To	Joe Howell - Owner		5. Operator	Crush CO., INC
6. Mine	CRUSHER 240		7. Mine ID	41-00001 (Contractor)
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>	
<p>The results of an MSHA full shift noise sample taken 5/14/20 showed a miner operating the #121 New Holland skid steer loader received an action level noise dose of 78.36%. This exceeds the action level dose of 50% plus the error factor (or 66%). The miner was not enrolled in a hearing conservation program that meets all the requirements of 30 CFR 62.150 as required by 30 CFR 62.120. Hearing protection was not being used.</p> <p>The abatement time is set to allow the mine operator time to enroll the miner in a formal hearing conservation program which meets all requirements of 30 CFR 62.150.</p>				
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>				
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 62.120	
<b>Section II--Inspector's Evaluation</b>				
10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or Illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104 (a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				
16. Termination Due				
A. Date	Mo Da Yr 5/26/2020	B. Time (24 Hr. Clock)	1700	
<b>Section III--Termination Action</b>				
17. Action to Terminate				
18. Terminated				
A. Date	Mo Da Yr	B. Time (24 Hr. Clock)		
<b>Section IV--Automated System Data</b>				
19. Type of Inspection (activity code)	E01	20. Event Number	1000001	21. Primary or Mill P
22. AR Name				23. AR Number
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>				

## Noise AL 104(a) NS&S Citation Termination

### Citation 1230006 (Noise AL Citation) Termination

#### **Section II** – *Justification for Action*

When terminating any citation when the miners are enrolled in a hearing conservation program that meets all the provision.

## NOISE AL 104(a) NS&S CITATION TERMINATION

Mine Citation/Order  
Continuation



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 05/14/2020	3. Citation/ Order Number 1000006 - 01
4. Served To Joe Howell - Owner		5. Operator Crush CO., INC
6. Mine CRUSHER 240		7. Mine ID 41-00001 (Contractor)

Section II--Justification for Action

The operator of the No. 121skid steer loader has been enrolled in a formal hearing conservation program meeting all provisions of 30 CFR 62.150.

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 1000001		
11. AR Name	AR Number	12. Date Mo Da Yr 05/18/2020	13. Time (24 Hr. Clock) 11:06

MSHA Form 7000-3a, Mar 85 (revised)

## Noise PEL 104(a) Citation

### Citation 1230007 (Noise PEL Citation)

#### Section I – Violation Data

Box 1. ☐ *Date* - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8. ☐ *Condition or Practice* –  
List if the miner sampled is wearing hearing protection and if the miner is enrolled in a hearing conservation program.


#### Section II – Inspector's Evaluation

Box 10. ☐ *Gravity* –

Line A. *Injury or Illness (has)(is)*: Unlikely vs Reasonable Likely is dependent on whether the miner is wearing appropriate hearing protection.

Line B. *Injury or illness could reasonably be expected to be*: Noise induced hearing loss is always Permanently Disabling.

# NOISE PEL 104(a) CITATION

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration			
<b>Section I--Violation Data</b>					
1. Date Mo Da Yr 5/14/2020		2. Time (24 Hr. Clock) 1109		3. Citation/ Order Number 1000007	
4. Served To Joe Howell - Owner			5. Operator Slab CO., INC		
6. Mine Bench 12			7. Mine ID 41-06666 (Contractor)		
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	
<p>The results of an MSHA full shift noise sample taken 5/14/20 showed the #4 chopper laborer received a permissible exposure noise level dose of 227.3%. This exceeds the permissible exposure level of 100% plus the error factor (or 132%). The operator has not instituted all feasible engineering and administrative controls. The miner is enrolled in a hearing conservation program that meets all the requirements of 30 CFR 62.150 as required by 30 CFR 62.120. Hearing protection was being used. This condition exposed miners to permanently disabling injuries.</p> <p>Abatement time is set to allow the operator to install all feasible engineering and administrative controls.</p> <p>The mine operator must ensure continued use of hearing protection and enrolment in a hearing conservation program until the noise dose is reduced to or below the permissible exposure level.</p>					
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>					
9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 62.130(a)		
<b>Section II--Inspector's Evaluation</b>					
10. Gravity:					
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>					
B. Injury or Illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>					
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>					D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>					
12. Type of Action 104 (a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr	
15. Area or Equipment					
16. Termination Due					
A. Date Mo Da Yr 5/21/2020		B. Time (24 Hr. Clock) 1500			
<b>Section III--Termination Action</b>					
17. Action to Terminate					
18. Terminated					
A. Date Mo Da Yr		B. Time (24 Hr. Clock)			
<b>Section IV--Automated System Data</b>					
19. Type of Inspection (activity code) E01		20. Event Number 1000001		21. Primary or Mill P	
22. AR Name				23. AR Number	
<small>MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.</small>					

## Noise PEL 104(a) Citation Termination

### **Citation 1230007-01 (Noise PEL Termination)**

#### **Section II – *Justification for Action***

When terminating any citation where engineering and administrative controls are installed to reduce exposure, all controls that are being used must be listed in the Justification for Action.



## NOISE PEL 104(a) CITATION TERMINATION

Mine Citation/Order  
Continuation



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 05/14/2020	3. Citation/ Order Number 1000007 - 01
4. Served To Joe Howell - Owner		5. Operator Slab CO., INC
6. Mine Bench 12		7. Mine ID 41-06666 (Contractor)

Section II--Justification for Action

The operator lined the metal bins and shaping table at the #4 chopper with rubber belting to reduce the noise level.

Based on an MSHA full shift noise sample taken on 5/18/20, the chopper laborer received a permissible exposure level noise dose of 76%. This dose is less than the permissible exposure level of 100% plus error factor (or 132%).

The chopper laborer identified above must remain enrolled in a hearing conservation program which complies with the provisions of 30 CFR 62.150 until the noise dose is reduced below the action level.

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
----------------	------------------	------------------------	--

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 1000001		
11. AR Name	AR Number	12. Date Mo Da Yr 05/18/2020	13. Time (24 Hr. Clock) 16:20

MSHA Form 7000-3a, Mar 85 (revised)

## Noise PEL P CODE 104(a) Termination

### **Citation 1230008-01 (Noise PEL P Code Termination)**

**Note:** A P Code review must be conducted before terminating a citation where the noise exposure continues to exceed the noise PEL. P Codes reviews are initiated and conducted by the district. Terminating a citation with a P Code requires National Office approval.

### **Section II – *Justification for Action***

Document that a P Code review has been conducted and list the assigned P Code number. Outline the job duties and function of the affected miner(s). List all controls implemented by the operator to reduce the noise exposure

## **CHAPTER 5 - GENERAL INFORMATION**

### **Citation/Order Books / IAS Citation Numbers - Accountability**

Inspectors are accountable for violation numbers issued through the Inspection Application System (IAS). Upon receipt of the violation numbers, the inspector must sign and date to acknowledge receipt of these numbers. Open the IAS home page, select Forms, then select Citation Disposition, then follow the Citation Disposition Wizard.

### **Issuing Citations and Orders**

It is not mandatory to give mine operators the citation or order form at the time the violation is observed. The operator or agent, however, will be informed of violative conditions observed and provided with information regarding exposure, negligence, severity, and the time permitted for abatement. Citations and orders shall be issued to the mine operator or his or her agent with reasonable promptness.

Note: Some citations or orders, because of the time needed for analysis or for other reasons, might be cited and delivered to the mine operator at a time after the violation has occurred. Examples include, but are not limited to: certain Part 50 violations, certain health violations, violations cited as a result of accident investigations, and violations cited as a result of reviewing accident forms.

### **Citations and Orders Involving Approved Plans or Granted Petitions for Modification**

When issuing citations and orders for violation of approved plans such as approved ventilation plans, approved roof control plans, emergency response plans, or for violation of terms in a granted petition for modification, the following items should be listed in the body of the citation:

Item # 8 □: The plan or petition's approval date, the page number, and the item number being cited. Petitions for modification terms cited should have the document/docket number of the petition and the page or item violated, as applicable.

### **Inspection or Investigation Closeout Conference**

At the conclusion of any enforcement-related inspection or investigation, inspectors shall discuss the general findings and each violation issued with the mine operator and, if applicable, with contractors and/or miners representatives. Also, during this conference, inspectors will inform and discuss following:

- If citations or orders will be evaluated as possibly flagrant and/or any that will be recommended for possible special assessment.

All parties will also be informed that they have 10 days to submit additional information or request a safety and health conference with the District Manager or designee if they disagree with actions taken by the inspector during the inspection or investigation. Further, all parties should be told that it is within the sole discretion of MSHA to grant requests for a conference and that a request for such conference must be in writing and include a brief statement of the reason(s) why each citation or order should be conferenced as required by 30 CFR Part 100.

### **Compliance Assistance Visit (CAV) Inspection Follow-Up (Metal and Nonmetal (MNM)) and (Coal Mine) Mine Act Section 303(x)**

#### **(MNM MINES)**

If an inspector observes an unabated violation which was noted on a previous CAV inspection, a 104(a) citation will be issued without referencing the CAV notice in the narrative or negligence evaluation section of the citation.

Inspectors should remember that a 104(a) citation is not the only action that can be taken for unabated CAV notices. Since the CAV inspection, the hazard observed during that inspection may have worsened or miners' exposure to the hazard might have increased. If an imminent danger situation now exists, a Section 107(a) withdrawal order should be issued with no reference made to the CAV notice in the body or negligence evaluation section of the order.

#### **(COAL MINES)**

Section 303(x): Before a coal mine is reopened after having been abandoned or declared inactive by the operator, the Secretary shall be notified, and an inspection of the entire mine shall be conducted by an authorized representative of the Secretary before mining operations begin.

### **Field Notes**

Inspector's field notes are official records, whether hand written or typed in the IAS Field Note application. Both hand written, or typed notes must be kept with the Inspection Report. Any notes taken during an inspection, in whatever form, should be included in the final report.

For specific guidance on citation and order documentation, refer to the General Inspection Procedures Handbook PH19-IV/V-1, as follows: [GIPH Manual](#)

## **Contractor Citations and MSHA ID Numbers**

Unless a contractor is cited, has a reportable accident, or is engaged in one of the nine types of construction or services listed in the MSHA Program Policy Manual (Volume III), an MSHA contractor ID number is not necessary. Some mine operators, however, require contractors to get numbers as a precondition for contract bidding. MSHA will provide an ID number for any contractor who requests one, but they need not apply except for the reasons specified above.

A contractor without an MSHA ID number can be cited using the mine operator's mine ID number until a contractor number is issued. A modification can then be written to include the new contractor number and to change the company name to the contractor's name when that number is obtained.

Note: The contractor's name entered on the citation must be exactly as it was when the MSHA Contractor ID number was assigned.

Contractor citations cannot be put into the MSHA computer system until the contractor is linked to the mine ID number.

## **Issuing Citations or Orders - Accident Investigations**

Inspectors will initiate a separate event and use that event number if citations or orders are issued which are not directly related to an accident. If a regular inspection is not ongoing at the mine at the time of the accident, a new event should be initiated.

Note: Unrelated citations or orders should not be included with the accident report.

## **Termination (Abatement) Times for Citations**

Inspectors shall give primary consideration to the health and safety of miners in establishing abatement times for all citations. The termination time for a citation must be specific and provide a reasonable time for mine operators to abate the conditions, practices, or circumstances which caused issuance of the citation. Citation abatement times shall not be established for the convenience of the mine operator, or for the inspector. The filing of a contest of a citation or order by a mine operator or contractor with the Federal Mine Safety and Health Review Commission or the filing of a petition for modification does not relieve the operator or contractor of the responsibility for terminating or abating the violation by its due date.

## **Extending/Terminating Citations at an MSHA Office**

Most citations and orders require an on-site inspection to verify appropriate abatement

before they can be terminated. Some citations and orders, such as those relating to certain records, may be terminated without conducting an on-site inspection. A field office supervisor should review and approve any citations or orders that are terminated by inspectors without conducting an on-site inspection. A “new” event number should not be initiated when a citation or order is extended, terminated, or vacated from an MSHA field office. The appropriate enforcement activity code from the last on-site inspection should be used.

### **Extending Citations - Operator has Contested a Citation or Order**

Contest of a citation or order by a mine operator or contractor with the Federal Mine Safety and Health Review Commission or the filing of a petition for modification does not relieve the operator or contractor of the responsibility of complying with the cited mandatory standard by its due date. These activities are not a basis to extend any citation unless inspectors are directed otherwise.

### **Modifications to Citations/Orders/Subsequent Actions**

The original Mine Citation/Order Form 7000-3 and 7000-3a and all copies must be exactly alike. Any items written or entered in error on the form must be modified using a Mine Citation/Order Continuation Form 7000-3a. Inspectors will not make changes on MSHA copies nor ask mine operators to make the same changes on their copies.

### **Terminating Citations and Orders**

Citations and orders will be terminated on either the Mine Citation/Order Form or a Subsequent Action Form and given to the mine operator or contractor.

**Example:** Four citations/orders were written and issued to the mine operator on Monday. Three days later all violative conditions were corrected. The four citations/orders shall be individually terminated on a Mine Citation/Order Subsequent Action Form 7000-3a.

Citations and orders shall be terminated when a mine is classified by MSHA as permanently abandoned and sealed, or if the operation or equipment moves to a location some distance from the original site (e.g., a portable crusher). Citations and orders shall also be terminated when out of compliance equipment is permanently "removed from service," is permanently retired from service, or is permanently removed from the mine site.

The following procedures shall apply when citations and orders are terminated in the above situations:

- Mine operation status is changed to "permanently abandoned".
- The inspector shall make every reasonable attempt to determine if the operator complied with the cited standards.

If the operator did comply then:

Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write on the termination(s) that the violative condition(s) or practice(s) was corrected.

If it is determined that the operator did not correct the violative condition(s) or practice(s) before the mine was abandoned then:

Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write the following on each termination:

"The basis for termination of this citation (or order) is the classification of the mine as permanently abandoned. The violative condition(s) or practice(s) was not corrected. The operator is required to comply with the provisions of the cited standard before resuming activities at this location or at another mine."

Operation or equipment moves to a new location away from the initial mine site. If the inspector determines that the operator did comply prior to moving then:

Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Note on the termination(s) that the basis for termination is that the violative condition was corrected.

If the inspector determines that the operator did not comply prior to moving, then:

Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Write the following statement on each termination:

"The basis for termination of this citation (or order) is the moving of mining operations (or equipment). The violative condition(s) or practice(s) was not corrected prior to moving. The operator is required to comply with the provisions of the standard before resuming any activities at another mine. Failure to correct the cited condition(s) or practice(s) prior to resuming these activities will be considered more than ordinary negligence."

## **Equipment Removed from Service**

The term "removed from service" does not mean that the mine operator stopped using and parked a piece of equipment (e.g., front-end loader, truck) or a mining unit (e.g., portable crusher, screening unit) when it could be restarted and easily placed back into service in the same condition which caused issuance of the original citation(s) or order(s). Rather, "removed from service" refers to the action(s) taken by the mine operator or contractor to render the equipment inoperable and eliminate the violation. The inspector should note those actions on the termination and refer to any evidence that the equipment was removed from service such as documentation and relevant statements made by the mine operator, or his or her representatives.

## **Mine Ownership Changes with Outstanding Citations or Orders**

When ownership of a mine changes after a citation(s) or order(s) is issued, the termination should be issued to the operator of the property at the time of termination. The operator of the mine at the time a citation is issued is the entity that will be assessed the civil penalty even though the mine no longer belongs to that operator.

In all cases, do not modify the outstanding citation(s) to change mine ownership.

When a change in mine operator occurs after a citation is issued but before it is terminated and justification is not found to extend the citation, a Section 104(b) order of withdrawal can be issued to the new mine operator.

**Example:** On July 1, Jane Doe Sand and Gravel is cited for an unguarded conveyor head pulley and given one week to abate the condition. On July 7, Tom Brown Crushing purchases the mine and begins managing the operation the same day. On July 10, an inspector returns to check on the outstanding guarding citation and finds that a guard had not been installed on the head pulley.

Based on the circumstances noted above:

An extension would be issued if the inspector found and documented mitigating circumstances (e.g., the new mine operator was unaware of the violation). The extension would be issued to "Tom Brown Crushing" noting in Section II narrative of form 7000-3a that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator; or

A Section 104(b) order of withdrawal would be issued if the inspector found and documented that there were no mitigating circumstances to issue an extension (e.g., the new mine operator was aware of the violation but chose not to abate the



cited condition). The 104(b) order would be issued to "Tom Brown Crushing" noting in the Item 8 narrative that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator.

## **Vacating Citations/Orders**

Vacated citations and orders must be included with inspection or investigation reports as they are part of the inspection record. If the inspector is still at the mine, he or she will not reclaim the previous copies and mark the citation or order "Void". Instead, those copies shall be left with the mine operator and inspectors shall issue a "Vacate" action on Form 7000-3a, stating the specific reason for vacating the citation or order on that form. Copies of all vacated citations and orders shall be forwarded to the District Office separate from the inspection report. Vacating an imminent danger order must be authorized by the appropriate District Manager prior to that action occurring.

## **Standard Subsections - Citations/Orders**

Specify both the standard and the appropriate subsection when a violation is cited.

## **Part 44 - Petitions-for-Modification**

Title 30 CFR Part 44.4(c) reads in part: "... Orders granting petitions-for-modification may contain special terms and conditions to assure adequate protection to miners. The modification, together with any conditions, shall have the same effect as a mandatory standard."

When a violation of one or more of the conditions specified in granted petitions-for-modification is found, the inspector shall:

- Cite the safety standard for which the petition-for-modification was granted;
- Include the docket number of the granted petition-for-modification in Item 8 of the Mine Citation/Order Form;
- Note the specific condition which was violated in the narrative of the Mine/Citation Order Form; and
- Notify his (or her) supervisor after citing this violation.

This citation may be the basis for initiating action to revoke the granted petition depending on the circumstances present at the time of issuance. Any request to revoke a

petition must be sent to MSHA HQ; these are not handled by the District.

### **Possible Knowing/Willful Violation Review Form (7000-20)**

Inspectors will complete a Possible Knowing/Willful Violation Review (PKW) Form for:

- a. 107(a) orders with 104(a) and 104(d) citations;
- b. 107(a) orders with 104(d) orders;
- c. S&S 104(d) citations and orders with an evaluation of at least "high" for negligence;
- d. 104(e) orders of withdrawal with an evaluation of at least "high" for negligence;
- e. flagrant violations; and
- f. citations issued for working in violation of an order.

Only a violation of a mandatory health and safety standard or order issued under the Mine Act shall be reviewed for possible further action. This includes violations of 30 CFR, Parts 46, 47, 48, 49, 50.10, 56, 57, 58, 62, 70, 71, 72, 75, 77, and 90.

The submission of the PKW form (7000-20) is submitted electronically through the IAS first:

- Open IAS home page.
- Check to make sure you have the correct event number select the right event number
- Click the dark green FORMS icon.
- Select the Possible Knowing/Willful Violation Review tab.
- Follow the drop-down windows; select the correct citation/order number.
- Proceed through the form answering the questions.

After finishing the form, open MCAS—MSHA Centralized Application System:

<https://gold.msha.dir.labor.gov:8095/MCASPortal/#/portal/login>

gold.msha.dir.labor.gov:8095/MCASPortal/#/portal/login

**MCAS** **MSHA** Centralized Application System

**Login**

Username \*

Password \*

[Disclaimer](#) [Login](#) [Privacy Act](#)

**\*WARNINGWARNINGWARNING\***

You are entering an official United States Government system which may be used only for authorized purposes. The Government may monitor and audit usage of this system and all persons are hereby notified that use of this system constitutes consent to such monitoring and auditing. Unauthorized attempts to upload information and/or change information on this web site are strictly prohibited and are subject to prosecution under the Computer Fraud and Abuse Act of 1986 and Title 18 of U.S.C Sec. 1001 and 1030. This system contains Privacy Act data.

Fill in the Username\*

Password\*

Note: This is the Username and Password for your computer.

**MCAS** **MSHA** Centralized Application System

**Home**

**Enforcement**  
V 0.1  
The U.S. Department of Labor's Mine Safety and Health Administration (MSHA) has a number of important tools for reducing injuries and illnesses in the nation's mines. Among these are  
[Read More ...](#)

**Penalty Assessment**  
V 0.1  
Manage civil penalties from case building, to hearing requests, to payment processing.  
[Read More ...](#)

**Special Enforcement Investigations (SEI)**  
V 0.1  
The Special Enforcement and Investigations application, maintained by PEIR, is a workflow management system that supports "the goal of the Special Investigations program to enforce  
[Read More ...](#)

**LID/MIF**  
V 0.1  
In order to fulfill its regulatory obligations under the Mine and the 30 CFR, U.S. Department of Labor's Mine Safety and Health Administration (MSHA) must accurately and correctly identify a  
[Read More ...](#)

**MSIS**  
V 0.1  
The MSHA Standardized Information System (MSIS) project replaced legacy management information systems (MIS) that ran on mainframe computers. MSIS has been in use  
[Read More ...](#)

**ITS**  
V 0.1  
The Inspection Tracking System (ITS) helps the Mine Safety and Health Administration (MSHA) personnel plan, execute, and report on mine inspections. Click card to open ITS in a new  
[Read More ...](#)

**SIS**  
V 0.1  
The primary function of the Student Information System (SIS) is to schedule and track all training conducted by the National Mine Health and Safety Academy.. Click card to open SIS in a new  
[Read More ...](#)

After you login to the MCAS on the left hand side there is several options for drop-down menus.

Select and click on the Special Enforcement Investigation (SEI), then PKW Status List.

From this window click on the Citation/Order No. Status. The citation/order should be in Blue. Follow the instructions, answers the questions and upload the required documentation in the drop-down windows. When you are finished click the blue button to submit it to your supervisor.

### Special Assessment Review Form (SAR) (7000-32)

The submission of the SAR form (7000-32) is done in the IAS – Inspection Application System. Go to forms and select Special Assessment; then it opens the Special Assessment Review Wizard. Follow the instructions.

Violations Requiring Submission of an MSHA SAR Form					
Category	None	Low	Moderate	High	Reckless disregard
Fatality / Serious injury	Yes	Yes	Yes	Yes	Yes
Section 104(a) Citations issued for violations of sections:	--	--	--	--	--
103(a), 103(f), 103(J), 103(k), 104(d), 104(b), 104(e), 104(g)(1), 107(a), and 110(j) of the Mine Act	Yes	Yes	Yes	Yes	Yes
Flagrant Violation	--	--	--	Yes	Yes
110(b) Daily Penalty for failure to abate	Yes	Yes	Yes	Yes	Yes
110(g) Smoking or smoking materials violations cited to miners	Yes	Yes	Yes	Yes	Yes

Any other violation involving circumstances warranting special assessment	Yes	Yes	Yes	Yes	Yes
Completion of a SAR form (MSHA Form 7000-32) is mandatory for each violation that is reviewed for special assessment.					

- Open IAS home page.
- Check to make sure you have the correct event number; select the right event number.
- Click the dark green FORMS icon.
- Click on the Special Assessment Review icon.
- Follow the directions.

Completion of a SAR form (MSHA Form 7000-32) is MANDATORY for each violation that is reviewed for special assessment.

For more information, see Program Policy Manual Volume III.

## Special Assessment Review Form (7000-32)

### Special Assessment Review Form

U.S. Department of Labor  
Mine Safety and Health Administration

This form contains information that is privileged or otherwise exempt from disclosure under applicable law.  
Do not disclose without consulting the Office of the Solicitor or the Office of Assessments.

1. MSHA District Office		2. Field Office	
3. Mine ID/Contractor ID		4. Mine Name	
5. Operator Name		6. Citation/Order Number	7. Citation/Order Issue Date
8. Accident Related Violation? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, all violations must be submitted together with any accident report or memorandum.			
9. Operator Notified of Special Assessment? <input type="checkbox"/> Yes <input type="checkbox"/> No			
10. Inspector's Recommendation Is this a flagrant violation? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Special Assessment? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, explain below the serious or aggravating circumstances involved.			

☐ See Continuation Sheet Signature \_\_\_\_\_ Date \_\_\_\_\_

11. Supervisor's Review		Is this a flagrant violation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Special Assessment? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Comments:			

☐ See Continuation Sheet Signature \_\_\_\_\_ Date \_\_\_\_\_

12. Assistant District Manager's Review		Is this a flagrant violation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Special Assessment? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Comments:			

☐ See Continuation Sheet Signature \_\_\_\_\_ Date \_\_\_\_\_

13. District Manager's Review		Is this a flagrant violation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Special Assessment? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Comments:			

☐ See Continuation Sheet Signature \_\_\_\_\_ Date \_\_\_\_\_

MSHA Form 7000-32, Revised August 2006

**Reset Form**

**Print Form**

## **Designating a Violation as “Flagrant”**

"Violations under this Section [110(b)] of the Mine Act that are deemed to be flagrant may be assessed a civil penalty. For purposes of the preceding sentence, the term ‘flagrant’ with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury."

Violations designated as “Flagrant” are an MSHA assessment enforcement tool as are other special assessments. They are applied only to elevated enforcement actions meeting certain criteria.

The inspectors’ determination of the proper level of enforcement action remains the same. The enforcement actions of 104(d)(1) citations, 104(d)(1) orders, and 104(d)(2) orders, and the policies and procedures used to determine their use remains the same without regard to a ‘flagrant’ designation.